DECISIONS

OF THE

RAILROAD COMMISSION

OF THE

STATE OF CALIFORNIA

VOLUME X

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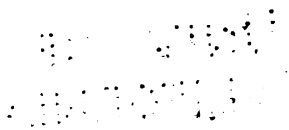

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CALIFORNIA RAILROAD COMMISSION DECISIONS.

Decision No. 3298, grade crossing; not printed. See end of volume.

DECISION NO. 3299.

IN THE MATTER OF THE APPLICATION OF CITY OF SAN DIEGO FOR AN ORDER FIXING AND DETERMINING THE JUST COMPENSATION TO BE PAID TO JAMES A. MURRAY, ED FLETCHER AND WM. G. HENSHAW, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF CUYAMACA WATER COMPANY, FOR THEIR LANDS, PROPERTY AND RIGHTS.

Application No. 1482.

Decided May 1, 1916.

Cuyamaca Water Company moves to have set aside the Commission's findings as to the value of its property established in connection with the above proceedings. Petitioner admits that the city has filed its condemnation suit within the time prescribed by law, but alleges that it has failed to take certain necessary subsequent actions, thereby delaying proceedings.

Held, The provision providing for the filing of a petition to set aside findings if the legislative or municipal body "does not proceed diligently to enforce the rights herein conferred" cannot be construed as applying to valuations in condemnation proceedings, for, in such actions, it is specifically provided that suit must be filed within sixty days after the certification of findings. The "to proceed diligently" clause applies to proceedings of the second class only, *i. e.*, when municipalities petition for the establishment of values with the intention of calling an election for the purpose of voting bonds to take over the particular utility.

Held, That the present proceeding was a condemnation action, that the suit was filed within the specified time, accordingly this Commission can not set aside its findings on the grounds that court proceedings are not advancing satisfactorily to petitioner.

Sweet, Stearns & Forward, for Cuyamaca Water Company.

T. B. Cosgrove, city attorney, for City of San Diego.

REPORT OF THE COMMISSION.

THIELEN, *Commissioner.*

OPINION ON ORDER TO SHOW CAUSE.

This is an application by James A. Murray, Ed Fletcher and Wm. G. Henshaw, copartners doing business under the firm name and style of Cuyamaca Water Company, in San Diego County, for an order determining that the findings heretofore made by this Commission in the above entitled proceeding shall no longer be of any force and effect. The findings referred to are the findings as to the just compensation to be paid by the City of San Diego for the lands, property and rights

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of Cuyamaca Water Company, in eminent domain proceedings or otherwise, heretofore made by this Commission on June 26, 1915, in Application No. 1482 (Vol. 7, Opinions and Orders of the Railroad Commission of California, p. 305).

The application is made under that portion of section 47 of the Public Utilities Act which reads as follows:

> "If the said county, city and county, incorporated city or town, municipal water district or other public corporation or the legislative or other governing body thereof shall fail to file such suit (referring to a condemnation suit) or proceed diligently to enforce the rights herein conferred and in the manner herein set forth, then upon written petition from the owner of such existing public utility setting forth said fact, the commission shall cause a notice of not less than ten days to be given to said county, city and county, incorporated city or town, municipal water district, county water district, irrigation district, public utility district or other public corporation to appear before said commission and show cause why an order should not be made by said commission, finding that the said county, city and county, incorporated city or town, municipal water district, county water district, irrigation district, public utility district or other public corporation has failed to diligently pursue its rights hereby conferred, and determining that the findings of the said commission theretofore made as to the just compensation that should be paid for the existing public utility and the lands, property and rights thereof, or any such part or portion thereof, shall no longer be of any force or effect. And said notice shall include a copy of said written petition so filed by said owner of such existing public utility. If the commission shall determine that said county, city and county, incorporated city or town, municipal water district, county water district, irrigation district, public utility district or other public corporation or the legislative or other governing body thereof has so failed to either file such suit or to proceed diligently to enforce the rights herein conferred and in the manner herein set forth, the commission shall make and enter such an order as so petitioned for by the owner of such existing public utility."

The petition in the present proceeding refers to the Commission's findings in Application No. 1482, made and filed on June 26, 1915, to the denial by the Railroad Commission of a petition for rehearing filed by petitioners herein, which denial was made and filed on August 4, 1915, and to the complaint in condemnation filed by the City of San Diego in the Superior Court of the State of California in and for San Diego County on September 23, 1915. It is admitted that the complaint in condemnation was filed within the time prescribed by section 47 of the Public Utilities Act. The petition herein then proceeds to allege that although a summons was issued in the condemnation suit on September 23, 1915, no steps were taken by the City of San Diego to cause service of said summons to be made upon any of the defendants named

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in said action or to prosecute said action diligently or at all. In February, 1916, the petitioners herein voluntarily filed a demurrer and in March, 1916, an answer in said condemnation proceedings, so as to be able to insist on the trial of the case. The petition alleges that one of the defendants in the condemnation proceedings is La Mesa, Lemon Grove and Spring Valley Irrigation District, and that the City of San Diego has not caused the summons to be served upon this defendant and that until such service has been made, the action is not at issue and can not be set down for trial. The petition alleges that the condemnation proceeding is a cloud upon petitioners' title and hinders and interferes with the plans of petitioners for the handling and management of their property and that the City of San Diego does not intend to condemn or acquire the property of petitioners.

The petition herein was filed on March 30, 1916. It is admitted that on April 8, 1916, the City of San Diego caused the summons in the condemnation action to be served upon La Mesa, Lemon Grove and Spring Valley Irrigation District and that issue has now been joined in said proceeding.

A public hearing on this application was held in San Diego on April 12, 1916. At said time, the City of San Diego filed a motion to dissolve the order to show cause and to dismiss the application. In support of this motion, the city urged that in view of the fact that the city filed its complaint in condemnation in the Superior Court within the time prescribed by law, this Commission now has no power to set aside its findings, which findings are made conclusive evidence as to the value of the property in the condemnation action. If this Commission had, and exercised, power to set aside its findings herein, it would be necessary for the parties to the condemnation proceeding in the Superior Court to retry completely the issue as to the just compensation. The trial of this issue before this Commission involved considerable time and expense for all parties, as well as for this Commission.

Whether this Commission has power to set aside its findings, on facts such as those herein presented, depends entirely upon a proper interpretation of the provisions of section 47 of the Public Utilities Act.

Section 47 provides the procedure to be followed by cities and other public corporations of the classes therein specified in seeking from the Railroad Commission a finding as to the just compensation to be paid to a public utility for its lands, property and rights or some portion thereof. Such finding is declared to be conclusive in condemnation proceedings. The section provides for the filing of petitions with the Railroad Commission in two distinct classes of cases. In cases of the first class, the petition is filed by the city or other public corporation

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and alleges that the city intends to acquire under eminent domain proceedings or otherwise the public utility property described in the petition. In cases of the second class, the petition is filed by the legislative or other governing body of the city or other public corporation and alleges that such legislative or other governing body intends to initiate proceedings to submit to the voters a proposition to acquire the public utility property described in the petition.

In cases of the first class, the city or other public corporation must file a complaint in condemnation in the Superior Court, within sixty days subsequent to the certification of its finding by the Railroad Commission, unless the public utility has filed a stipulation accepting the finding of the Railroad Commission. This provision insures diligence on the part of the city or other public corporation in acting on the Railroad Commission's finding. Such provision, however, is obviously ineffective to insure diligence in cases of the second class, for the reason that unless some other means is provided to insure diligence, the city or other public corporation may delay as long as it pleases in initiating and carrying forward the proceedings under which the voters are to vote on the proposition of acquiring the public utility property at the price fixed by the Railroad Commission.

The section accordingly provides in the language hereinbefore quoted, that a petition may be filed by the public utility to have the Railroad Commission set aside its finding, if the city or other public corporation or the legislative or other governing body thereof "shall fail to file such suit or proceed diligently to enforce the rights herein conferred and in the manner herein set forth." In my opinion the words "or proceed diligently to enforce the rights herein conferred and in the manner herein set forth" apply to cases of the second class in which the question of the acquisition of the property is to be submitted to the voters and not to proceedings of the first class, in which a condemnation action is to be filed directly if the utility does not accept the Commission's findings. If these words were intended to apply to both classes of cases, it would have been entirely unnecessary to insert the words "to file such suits," the general necessity of exercising diligence would then cover both classes of cases.

The view expressed herein by the petitioners would result in the possibility of having this Commission set aside its finding after suit brought within the time specified, in the Superior Court, in reliance on such finding. Thus, indirectly, at least, this Commission would be interfering with the proceedings in another forum over which it has no jurisdiction. It seems far more likely that the legislature intended to remit the parties, after suit filed in the Superior Court, to their remedies in the Superior Court prescribed by the Code of Civil Procedure, and to limit this Commission's functions to the period of time prior to the filing of proceedings in another tribunal.

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If proceedings are not diligently prosecuted in the Superior Court, the usual relief in such cases may be had in the Superior Court. The process of that court must be deemed sufficient to insure diligence therein. I have been unable to find any indication in section 47 of the Public Utilities Act to show that the legislature intended to insure speed in actions pending before the Superior Court, through the instrumentality of proceedings before the Railroad Commission.

As already indicated, an issue has now been joined in the condemnation suit filed in the Superior Court, and there would seem to be nothing to prevent any party in that court from moving that the case be set for trial.

I submit the following form of order:

ORDER.

A public hearing having been held on the petition of James A. Murray, Ed Fletcher and Wm. G. Henshaw, in the above entitled proceeding, for an order determining that the finding of the Railroad Commission heretofore made herein shall no longer be of any force or effect, and the City of San Diego having filed a written motion to dissolve the order to show cause heretofore issued on said petition and to dismiss said petition, and said matter having been submitted and being ready for decision,

It is hereby ordered that said order to show cause is hereby dissolved and that said petition for said order is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of May, 1916.

DECISION No. 3300.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF ORANGE FOR AN ORDER AUTHORIZING IT TO CONSTRUCT CROSSINGS OVER THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Application No. 1669.

Decided May 1, 1916.

Applicant granted permission to construct Jefferson street at grade across the tracks of Santa Fe railway company in the unincorporated town of Richfield, such crossing to be constructed and an automatic flagman installed at the expense of applicant.

Walter Eden, for Applicant.

M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application, filed with the Commission on May 12, 1915, looks to the opening of Anaheim road and Jefferson street in the unincorporated city of Richfield, at grade, across the tracks of The Atchison, Topeka and Santa Fe Railway Company.

At the hearing held on this application the applicant withdrew that part of the application which referred to Anaheim road, so it will be necessary only to consider the proposed Jefferson street crossing.

This street is laid out in a north and south direction and makes an angle of about 50 degrees with the track at the point of crossing where the track is on a 3 degree curve and about a 2-10 of 1 per cent grade. While the traffic which will use this crossing will not be great, I am satisfied that the road is nevertheless needed. There is no crossing of the track nearer than one mile in either direction at the present time, and a road is now in existence parallel to Jefferson street through its entire length, and some distance east of it, which has been used as a public road for a number of years.

The proposed improved road on Jefferson street will cross the Santa Fe in two places. It will cross the main line immediately south of the junction of Elder street and Jefferson street, and will cross it again at the point covered in this application.

When application was made for the present proposed crossing, the crossing near Elder street was omitted, as the Santa Fe maps showed a crossing there, and it was considered by the County of Orange that a legal crossing was now in existence. This is not the case, however, and both crossings should have been applied for at the same time. It is the intention of the county to improve both crossings and the road between them and for some distance south of the crossing applied for herein, so in a measure the two crossings must be considered together.

At the crossing of Jefferson street, covered by this application, the view at the intersection of the highway with the railway is open on all four corners, but on account of the sharp angles of intersection and because the country is being rapidly improved and one orange grove has already been set out in such a way as to eventually obscure the view, I am of the opinion that this crossing should be protected by an automatic flagman.

I see no reason why the expense of this crossing should not be borne by the county. As a matter of fact the county has already accepted an easement from the Santa Fe for this crossing, and the easement covers such an installation at the county's expense.

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The other crossing of the Santa Fe tracks on Jefferson street, near Elder street, will be later applied for by the county, and the representatives of the Santa Fe at the hearing agreed to install an automatic flagman there at the company's own expense, provided the county made a similar installation at the crossing under consideration here.

The present road east of Jefferson street should, of course, be legally closed and abandoned at the crossings, and it is the intention of the county to do this when Jefferson street is improved and the two crossings on that street are installed.

I recommend the following form of order:

ORDER.

County of Orange, having applied to the Commission for permission to construct Jefferson street and Anaheim street at grade over the tracks of The Atchison, Topeka and Santa Fe Railway Company, and a hearing having been held and applicant having withdrawn the Anaheim street crossing from consideration, and it appearing to the Commission that the Jefferson street crossing should be opened subject to certain conditions,

It is hereby ordered that the County of Orange be and the same is hereby granted permission to construct Jefferson street at grade over the tracks of The Atchison, Topeka and Santa Fe Railway Company, at the point described in the application and shown on the map attached to same, subject to the following conditions, viz:

(1) The entire expense of constructing this crossing shall be borne by applicant.

(2) The expense of maintaining said crossing thereafter to a point within two (2) feet of the rails of The Atchison, Topeka and Santa Fe Railway Company shall be borne by applicant. The expense of maintaining the crossing between the rails and to a point two (2) feet outside thereof shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

(3) The crossing shall be constructed of a width of not less than twenty-four (24) feet, with grades of approach not exceeding four (4) per cent, and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(4) For the protection of this crossing there shall be installed an automatic flagman of a type approved by the Commission. The expense of this installation shall be borne by applicant and the expense of maintenance thereafter in first-class operating condition shall be borne by The Atchison, Topeka and Santa Fe Railway Company.

(5) The present highway crossing to the east of this proposed crossing, and referred to in the foregoing opinion, shall be legally closed and abandoned as a public highway crossing.

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(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of this crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of May, 1916.

DECISION No. 3301.

IN THE MATTER OF THE APPLICATION OF COLUSA COUNTY FOR PERMISSION TO CONSTRUCT A PUBLIC HIGHWAY AT GRADE ACROSS THE TRACK OF SOUTHERN PACIFIC COMPANY, IN COLUSA COUNTY, CALIFORNIA.

Application No. 2045.

Decided May 1, 1916.

J. W. Kaerth, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was made under the terms of section 2694 of the Political Code, and a hearing was held on February 23d, in the offices of the board of supervisors, at Colusa, as provided by law. There were no witnesses present at the hearing to testify as to the need of this road and it developed that possibly a road one-half mile north would be preferable to the one under consideration. The County of Colusa, under date of March 30th, advised the Commission that the persons interested are getting up a new petition, so it seems this application should be dismissed.

I recommend the following form of order:

ORDER.

Colusa County, California, having applied to the Commission for permission to construct a public highway crossing at grade across the tracks of Southern Pacific Company, and a public hearing having been held and it appearing that a crossing in another location may better serve public convenience than the crossing applied for, and the County of Colusa having advised the Commission that a petition will be filed with it for this crossing,

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It is hereby ordered that this application be and the same hereby is dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of May, 1916.

DECISION No. 3302.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF TEHAMA COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT A ROAD IN ROAD DISTRICTS NUMBERS TWO AND FIVE OF TEHAMA COUNTY AT GRADE OVER THE TRACKS OF SOUTHERN PACIFIC COMPANY.

Application No. 2126.

Decided May 1, 1916.

Applicants granted permission to construct a certain road in Tehama County at grade across the tracks of Southern Pacific Company; provided, in accordance with the general procedure in such cases, that an infrequently-used crossing in the immediate vicinity be closed to traffic.

W. H. Samson, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was made, and the hearing was subsequently held, under section 2694 of the Political Code, as amended January 2, 1912, which requires that after viewers have been appointed to view a crossing which a county proposes to open, a certified copy of the petition requesting the opening of such crossing, and of the order appointing viewers, be submitted to the Commission, and a hearing thereafter held, at which hearing the Commission shall hear the evidence and "determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation and maintenance, use and protection of said crossing."

The crossing sought in this application is in township 26 north, range 3 west, and is about 6 miles north of Red Bluff and 1½ miles north of Proberta. This state highway is located to the west of the tracks of Southern Pacific Company, and at this point it is parallel and adjacent to the railroad's right of way. The Sacramento River is east of the railroad some 3 miles, and along the route of this proposed road between the river and the state highway there are several ranches which have no outlet to a public thoroughfare. It is to secure such an outlet

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that this application has been filed and the crossing herein applied for is desired.

At the hearing held in this application it was made clear that the only practicable way for the ranchers who are now obliged to use private roads to secure access to a public road was by the route selected by the viewers. Four members of the board of supervisors were present at the hearing and were in favor of its construction, and I believe it is reasonable that the crossing should be permitted. Immediately to the north of the crossing the track is in a slight cut, the dirt from which has been piled on top of the cut in such a manner that it will form an obstruction to the view of approaching trains. The excavated material can be removed without much expense, and when this is done those approaching the crossing in either direction will have a clear view of trains coming from both north and south. Although the supervisors agreed to install automatic flagman protection at the crossing if the Commission should so order, I am inclined to think that the removal of the dirt as suggested will make the crossing as safe as the installation of a flagman and that the money could, if the supervisors desire, be spent to advantage in that way.

As at all crossing hearings the crossings adjacent to the proposed crossing were considered, as it is the policy of the Commission to keep the number of grade crossings in the State, as far as it consistently can, from being increased in number. It has often been found when a new crossing is needed that nearby crossings can be closed without undue public inconvenience; and by closing such crossings, when permission to construct a new one is granted, public convenience can be increased and the grade crossing situation in the vicinity materially improved at the same time. Less than a mile south of the crossing considered in this application there is a public crossing located north of the Proberta subdivision and south of the Mooney ranch, which appears to be used comparatively little, and the members of the board of supervisors were of the opinion that the crossing could be closed without affecting the interest of any but one or two property owners in the immediate neighborhood; and that such inconvenience as might be occasioned would be slight because there is still another public crossing about one-half mile farther south.

It was tentatively agreed by the board that if the Commission granted the pending application this crossing would be closed and that it could be made a condition in the order. Since the hearing several protests have been received against the closing of this road, but they have been in the form of petitions and the interest of the signers in having the road remain open was not made apparent. The Commission's decisions, of course, must be made on the evidence adduced at the hearings and if petitions, especially those in which the interest of

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the signers is not clear, are to have much weight given them, it would be difficult for it to arrive at a decision. In this case it was proposed to make the opening of one crossing contingent upon the closing of another. The order was to be permissive only and one which the board of supervisors would either accept or reject as they saw fit, and I see no reason why such an order should not be made.

I recommend the following form of order:

ORDER.

Board of Supervisors of Tehama County, California, having applied to the Commission for permission to construct a public road at grade across the tracks of Southern Pacific Company, in road districts 2 and 5, Tehama County, California, and a public hearing having been held, and it appearing that this application should be granted subject to certain conditions,

It is hereby ordered that permission be and the same is hereby granted board of supervisors of Tehama County to construct a public road at grade across the tracks of Southern Pacific Company at the point and in the manner more particularly described in the application and shown on the map accompanying same, and subject to the following conditions and not otherwise, viz:

(1) The entire expense of constructing this crossing shall be borne by applicant.

(2) The expense of maintaining said crossing to a point within two (2) feet of the rails of Southern Pacific Company shall be borne by applicant. The expense of maintaining the crossing between the rails of Southern Pacific Company and to a point two (2) feet outside thereof shall be borne by Southern Pacific Company.

(3) Said crossing shall be constructed of a width not less than twenty (20) feet, with grades of approach not exceeding five (5) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) Applicant shall at its own expense either remove the excavated material from the edge of the cut in such a manner as to give an unobstructed view of approaching trains or shall, at its own expense, install an automatic flagman of a type approved by the Commission.

(5) If an automatic flagman is installed the expense of maintaining same after its installation in a first-class operating condition shall be borne by Southern Pacific Company.

(6) The public highway crossing between the subdivision of Proberta and the Mooney ranch, referred to in the foregoing opinion, shall be legally closed and abandoned as a public highway crossing.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to

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revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of May, 1916.

Decisions Nos. 3303, 3304 and 3305, grade crossings; not printed. See end of volume.

DECISION NO. 3306.

IMPERIAL WATER COMPANY No. 5

vs.

W. H. HOLABIRD, RECEIVER OF THE PROPERTY OF CALIFORNIA DEVELOPMENT COMPANY.

Case No. 821.

Decided May 3, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled proceeding having filed a written stipulation stating that the controversy between the parties hereto has been adjusted and requesting that the above entitled proceeding be dismissed,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 3d day of May, 1916.

DECISION NO. 3307.

IN THE MATTER OF THE APPLICATION OF C. L. HOVEY, RECEIVER FOR THE BOCA AND LOYALTON RAILROAD COMPANY, FOR PERMISSION TO CONTINUE THE OPERATION OF A CERTAIN TRAIN SCHEDULE.

Application No. 2241.

Decided May 3, 1916.

Applicant granted permission to continue, for the months of May and June, a reduced operating schedule between Portola and Loyalton, and is directed to submit on or before June 15th, for the approval of the Commission, a train schedule covering the entire line.

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REPORT OF THE COMMISSION.

The applicant, C. L. Hovey, as receiver for the Boca and Loyalton Railroad Company, petitions for an order of the Commission continuing the schedule of train service heretofore authorized by the Commission's Decision No. 3045, in Application No. 2028, and alleges that a schedule of one round trip by mixed train on Tuesday and Friday of each week between the stations of Portola and Loyalton has been operated in accordance with the order of the Commission; that the service has not produced the cost of operation, and although the expense of operation has been reduced to the minimum, there appears no possibility of operating during the summer months on an increased schedule unless at a serious financial loss.

In view of the fact that the order of the Commission in Application 2028, Decision 3045, authorized an entire suspension of service between the stations of Boca and Loyalton during the months January to May, 1916, we are unwilling, at this time, to order service between these stations suspended for an indefinite period.

The reduced service between Portola and Loyalton should be operated during the months of May and June, 1916, and applicant should prepare and submit to this Commission on or before June 15, 1916, a proposed schedule of train service covering the entire line.

ORDER.

C. L. Hovey, as receiver of the Boca and Loyalton Railroad Company, having made application to this Commission for permission to continue the operation of a minimum train schedule between the stations of Portola and Loyalton, the Commission being fully advised in the premises and of the opinion that this is not a matter in which a public hearing is necessary,

It is hereby ordered that C. L. Hovey, as receiver of the Boca and Loyalton Railroad Company, be permitted to operate a schedule of one round trip by mixed train on Tuesday and Friday of each week between the stations of Portola and Loyalton, such schedule to be effective during the months of May and June, 1916.

It is further ordered that a schedule of train service covering the operation of the entire line between Portola and Boca be prepared and submitted to this Commission for approval not later than June 15, 1916.

Dated at San Francisco, California, this 3d day of May, 1916.

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Decision No. 3308.

IN THE MATTER OF THE APPLICATION OF LEWIS A. HILBORN FOR PERMISSION TO LEASE TO CARMICHAEL IRRIGATION DISTRICT A CERTAIN WATER DISTRIBUTING SYSTEM IN CARMICHAEL COLONY NUMBER ONE, IN THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA.

Application No. 2257.

Decided May 6, 1916.

L. A. Hilborn granted permission to lease, for a period of six months, his certain irrigation system to the Carmichael Irrigation District.

Report of the Commission.

This Commission having, in its order made on April 19, 1916, in Application No. 2101, being the application of Carmichael Irrigation District to have the Commission fix the compensation to be paid for the water distributing system owned by L. A. Hilborn in Carmichael Colony No. 1, in the county of Sacramento, State of California, made a finding of the just and adequate compensation to be paid by the district for said property, and Carmichael Colony and L. A. Hilborn having subsequently filed the present application, stating that the district did not have on hand funds sufficient to purchase said system, and that it was the desire of the parties that the district should lease said system for the period of six months, and L. A. Hilborn having asked the authority of the Commission to lease to Carmichael Irrigation District, for the period of six months, beginning May 1, 1916, certain real property, and also, to assign certain contracts in accordance with the form of lease and assignment attached to the application in this proceeding and marked "Exhibit A," and described as follows:

> All that certain redwood stave pipe water system, together with all water pipes, main line and laterals, water connections and taps of every kind, nature and description, together with all equipments, tools and personal property of every nature, kind and description, belonging thereto and used in connection with said water pipe system, together with all rights of way acquired and belonging to said system now being situated and located in and on that certain tract of land commonly known as the Carmichael Colony, situated in Sacramento County, California—the above described pipe system being the same distributing system sold and conveyed by D. W. Carmichael of the county of Sacramento to the American Canyon Water Company by bill of sale dated November 30, 1912.
>
> (1) Contract dated February 21, 1910, made by and between the American Canyon Water Company, party of the first part, American Irrigation Company, party of the second part, and D. W. Carmichael, party of the third part; acreage, 2,069.42.

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(2) Contract made November 30, 1912, by American Canyon Water Company, party of the first part, and D. W. Carmichael, party of the second part; acreage, 1,126.64.

(3) Contract, bill of sale and agreement dated November 30, 1912, made by and between D. W. Carmichael, party of the first part, and American Canyon Water Company, American Irrigation Company and California Corporation, parties of the second part.

(4) Contract made May 21, 1910, between American Canyon Water Company, party of the first part, American Irrigation Company, party of the second part, and H. A. Lewis, John C. Ing and W. E. Trainor, the parties of the third part; acreage, 400.

(5) Contract dated November 16, 1910, between the American Canyon Water Company, party of the first part, American Irrigation Company, party of the second part, and W. E. Trainor, party of the third part; acreage 270.

(6) Contract dated February 8, 1911, between American Canyon Water Company, party of the first part, American Irrigation Company, party of the second part, and W. E. Trainor, party of the third part; 150.91 acres.

(7) Contract made on the 4th day of April, 1911, between American Canyon Water Company, as first party, American Irrigation Company, second party, and Orange Land Company, a corporation, third party; 158.69 acres.

(8) Contract made on the 27th day of May, 1911, between American Canyon Water Company, party of the first part, and Walter E. Trainor, party of the second part; 1,272 acres.

(9) Contract made the 27th day of June, 1912, between American Canyon Water Company, party of the first part, and Walter E. Trainor, party of the second part.

The distributing system and the contracts hereinabove described are those conveyed to Lewis A. Hilborn by trustee's deed made July 6, 1914, by and between First Federal Trust Company, a corporation, trustee named in that certain mortgage or deed of trust executed by American Canyon Water Company under date of July 1, 1909, party of the first part, and Lewis A. Hilborn, of the county of Alameda, party of the second part, which said deed was recorded July 15, 1914, in Book 406 of Deeds, page 231, Sacramento County records.

The lands on which said system is located are included in what is known as Carmichael Colony No. 1, in the county of Sacramento, State of California, map of which said colony was filed for record in the office of the county recorder of said county of Sacramento on March 11, 1910.

And it appearing to the Commission that this application should be granted and that a hearing is not necessary,

It is hereby ordered that this application be and the same is hereby granted.

Dated at San Francisco, California, this 6th day of May, 1916.

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DECISION No. 3309.

IN THE MATTER OF THE APPLICATION OF D. W. CARMICHAEL FOR PERMISSION TO LEASE TO CARMICHAEL IRRIGATION DISTRICT A CERTAIN WATER DISTRIBUTING SYSTEM IN CARMICHAEL COLONY No. 2, IN THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA.

Application No. 2256.

Decided May 6, 1916.

REPORT OF THE COMMISSION.

ORDER.

This Commission having, in its order made on April 17, 1916, in Application No. 2102, being the application of Carmichael Irrigation District to have the Commission fix the compensation to be paid for the water distributing system owned by D. W. Carmichael in Carmichael Colony No. 2, county of Sacramento, State of California, made a finding of the just and adejuate compensation to be paid by the district for said property, and D. W. Carmichael and Carmichael Irrigation District having subsequently filed the present application, stating that the district did not have on hand funds sufficient to purchase said system and that it was the desire of the parties that the district should lease said system for the period of six months, and D. W. Carmichael having asked the authority of the Commission to lease to Carmichael Irrigation District for the period of six months, beginning May 1, 1916, in accordance with a form of lease attached to the application herein and marked "Exhibit A," the following described property:

> All that certain steel pipe line and water distributing system in Carmichael Colony No. 2, in the county of Sacramento, State of California, constructed and laid in said Carmichael Colony No. 2 in 1915, by the Sacramento Pipe Works of Sacramento for D. W. Carmichael, of the said city of Sacramento, being the same system and property referred to and described in Application No. 2102, filed with the Railroad Commission of the State of California, by Carmichael Irrigation District on February 25, 1916.
>
> The said lands on which said system is located are included in what is known as Carmichael Colony No. 2, in the county of Sacramento, State of California, map of which said colony was filed in the office of the county recorder of the said county of Sacramento, on May 11, 1914;

and it appearing to the Commission that this application should be granted and that a hearing is not necessary,

It is hereby ordered that this application be and the same is hereby granted.

Dated at San Francisco, California, this 6th day of May, 1916.

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DECISION No. 3310.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED SIXTY-SIX THOUSAND DOLLARS, AND NOTES OF THE FACE VALUE OF THIRTY-THREE THOUSAND DOLLARS.

Application No. 1731.

Decided May 6, 1916.

REPORT OF THE COMMISSION.

ELEVENTH SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 2726, dated August 31, 1915, authorized the delivery to Western States Gas and Electric Company of $182,000.00 face value of bonds, the issue of which was authorized by Decision No. 2550, dated June 30, 1915, provided that said Western States Gas and Electric Company deposit with the trustee, Girard Trust Company, the sum of $182,000.00 in cash, said $182,000.00 so deposited with the trustee to be withdrawn by applicant herein from time to time in accordance with the order of this Commission permitting the withdrawal; and

Whereas applicant herein has heretofore been authorized to withdraw from said Girard Trust Company the sum of $163,666.37, leaving on deposit the sum of $18,333.63; and

Whereas applicant on April 29, 1916, filed a statement showing that it has expended from March 1, 1916, to March 31, 1916, both duties inclusive, the sum of $14,080.26 for extensions, additions and betterments to its plant; and

Whereas applicant asks authority to withdraw from the aforesaid fund of $18,333.63 remaining on deposit with the trustee, the sum of $14,080.26; and good cause appearing,

It is hereby ordered that Western States Gas and Electric Company be given authority, and it is hereby given authority, to withdraw from Girard Trust Company the sum of $14,080.26, being a portion of the amount deposited with the trustee in accordance with Decision No. 2726, dated August 31, 1915, of the Railroad Commission of the State of California.

It is hereby further ordered that Decision No. 2550, dated June 30, 1915, as amended by the supplemental orders thereto shall remain in full force and effect except as it may be modified by this eleventh supplemental order.

Dated at San Francisco, California, this 6th day of May, 1916.

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DECISION No. 3311.

IN THE MATTER OF THE APPLICATION OF INGLEWOOD WATER COMPANY FOR AN ORDER AUTHORIZING IT TO CHANGE RATES, ISSUE BONDS AND PURCHASE WATER SYSTEM FROM HYDE PARK WATER COMPANY, AND OF THE LATTER COMPANY TO SELL SAID SYSTEM.

Application No. 1972.

Decided May 6, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 3232, dated April 5, 1916, authorized Inglewood Water Company to execute to Title Insurance and Trust Company a mortgage or deed of trust in substantially the same form and tenor as the mortgage or deed of trust attached to the application herein and marked "Exhibit J Amended," said mortgage or deed of trust securing the payment of $300,000.00 face value of 6 per cent 15-year first mortgage bonds, dated February 1, 1916; and

Whereas Inglewood Water Company now asks this Commission for authority to execute a mortgage or deed of trust substantially in the same form and tenor as the mortgage or deed of trust attached to the application herein and marked "Exhibit K," in lieu of the aforesaid mortgage or deed of trust marked "Exhibit J Amended"; and

Whereas the mortgage or deed of trust marked "Exhibit K" differs from the mortgage or deed of trust marked "Exhibit J Amended" in that the date of the bonds is changed from February 1, 1916 to May 1, 1916, and in some other minor matters, and good cause appearing,

It is hereby ordered that Inglewood Water Company be given authority to execute to Title Insurance and Trust Company a mortgage or deed of trust substantially in the same form and tenor as the mortgage or deed of trust attached to the application herein and marked "Exhibit K."

It it hereby further ordered that Decision No. 3232, dated April 5, 1916, in so far as it authorizes the execution of a mortgage or deed of trust attached to the application herein marked "Exhibit J Amended," be vacated and set aside.

It is hereby further ordered that Decision No. 3157, dated March 4, 1916, shall remain in full force and effect, except as modified by this second supplemental order.

Dated at San Francisco, California, this 6th day of May, 1916.

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DECISION NO. 3312.

IN THE MATTER OF THE APPLICATION OF FAIRMONT WATER COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES CHARGED FOR WATER.

Application No. 2059.

Decided May 8, 1916.

Applicant serving several districts with water at varying rates ranging from 10 cents to 25 cents per 1,000 gallons, applies for permission to establish a uniform rate of 25 cents per 1,000; minimum $1.25 monthly. After consideration of the appraisements submitted by engineers, the sum of $2,508.00 is determined upon as a fair return upon the value of its property serving the City, Mountain View and Sierra Vista districts. Depreciation annuity for these districts is computed on the 4 per cent sinking fund basis and fixed at $1,601.00. The following rates established for the City, Mountain View and Sierra Vista districts to be made effective for meter readings of May: Minimum $1.00 per month; first 500 cubic feet, 20 cents per 100; next 2,500 cubic feet, 16 cents per 100; over 3,000 cubic feet, 12 cents per 100.

Sweet, Stearns & Forward, for Fairmont Water Company.

H. D. Hicker, for Sierra Vista Improvement Club.

F. G. Blood, for East San Diego Civic League.

C. J. Noel, for Taxpayers' Protective League.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application by Fairmont Water Company for an order authorizing an increase in the rates charged for water sold by petitioner in a portion of East San Diego and in certain unincorporated territory adjacent to East San Diego.

The territory served by Fairmont Water Company is referred to in the evidence herein as being divided into four districts, namely, the Cuyamaca District, the City District, the Mountain View District and the Sierra Vista District. The Cuyamaca District is located in the city of East San Diego and is supplied by Fairmont Water Company with water purchased from the Cuyamaca Water Company, and is not included in the present proceeding. The other three districts are supplied by Fairmont Water Company with water purchased from the city of San Diego. The Cuyamaca, City and Mountain View districts are connected by a pipe line, so that in cases of emergency, water from the system of Cuyamaca Water Company may be supplied to each of these districts. The Sierra Vista District is entirely disconnected from the other three districts. It is located in unincorporated territory, about one mile south from the southerly limits of the city of San Diego, and is served with water secured from the city of San Diego through an independent tap.

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Public hearings in this proceeding were held in the city of San Diego on April 12 and 13, 1916. Evidence was presented by petitioner herein and in behalf of the citizens of East San Diego and of the Sierra Vista District.

Fairmont Water Company pays to Cuyamaca Water Company 15 cents per 1,000 gallons, except that during the summer time, it purchases certain flood waters at 10 cents per 1,000 gallons. Fairmont Water Company pays to the city of San Diego an average rate of approximately 10 cents per 1,000 gallons for the water sold in the city and Mountain View districts, and 8 cents per 100 cubic feet for the water sold in the Sierra Vista District.

The rates at present charged by Fairmont Water Company to its customers in the four districts hereinbefore referred to are as follows:

In the City District, 20 cents per 1,000 gallons, with a monthly minimum of $1.00.

In the Mountain View District, 10 cents per 1,000 gallons, with a monthly minimum of $1.00.

In the Sierra Vista District, 15 cents per 1,000 gallons, with a monthly minimum of $1.25.

In the Cuyamaca District, 25 cents per 1,000 gallons, with a monthly minimum of $1.25.

Petitioner asks authority to establish in the City, Mountain View and Sierra Vista districts the uniform rate of 25 cents per 1,000 gallons for each 1,000 gallons of water delivered, with a monthly minimum charge of $1.25 if paid on or before the tenth day of the month following the month in which the service is rendered, with some appropriate penalty for failure to pay by tenth day of the month.

During the year 1915, Fairmont Water Company had an average of 768 customers in the City and Mountain View districts, 445 customers in the Cuyamaca District and 51 customers in the Sierra Vista District.

The subject matter of this opinion will now be considered under the following heads:

(1) Value of Property.
(2) Rate of Return.
(3) Depreciation Annuity.
(4) Maintenance and Operating Expenses.
(5) The Rate.
(6) Service.

1. *Value of Property.*

There is no satisfactory evidence herein with reference to the original cost to date of the property of Fairmont Water Company now under consideration.

Estimate of the cost to reproduce said property as of April 1, 1916, and also of the estimated cost to reproduce, less accrued depreciation,

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were presented on behalf of Fairmont Water Company by Mr. F. M. Faude, and on behalf of the Railroad Commission by Assistant Hydraulic Engineer M. H. Brinkley.

The following table shows a summary of Mr. Faude's report:

Table No. I.

Estimated Reproduction Cost and Depreciated Reproduction Cost—Fairmont Water Company's Property—F. M. Faude.

	Reproduction cost	Accrued depreciation	Depreciated reproduction cost
City and Mountain View districts	$40,737 00	$9,040 00	$31,697 00
Sierra Vista District	1,963 00	356 00	1,607 00
Miscellaneous structures—65¼ per cent of totals	1,770 00	188 00	1,582 00
Stock and materials on hand—65¼ per cent of totals	1,660 00	----------	1,660 00
Grand totals	$46,130 00	$9,584 00	$36,546 00

Mr. Faude testified that the average of the water sold by the city of San Diego and paid for in the City, Mountain View and Sierra Vista districts is 65¼ per cent of the average of the water purchased from the City of San Diego and sold over the Fairmont Water Company's entire system. In order to ascertain the portion of miscellaneous structures and of stock and materials on hand properly chargeable to the City, Mountain View and Sierra Vista districts, Mr. Faude accordingly applies the percentage of 65¼ to the total sums applicable to miscellaneous structures, stock and materials on hand for Fairmont Water Company's entire system.

The following table shows Mr. Brinkley's estimate of the cost to reproduce the entire system with accrued depreciation and estimated reproduction cost less accrued depreciation:

Table No. II.

Estimated Reproduction Cost, Accrued Depreciation and Estimated Reproduction Cost Less Depreciation—Fairmont Water Company—M. H. Brinkley.

	Estimated reproduction cost	Accrued depreciation	Estimated reproduction cost less accrued depreciation
City and Mountain View districts	$36,596 00	$7,925 00	$28,661 00
Cuyamaca District	17,912 00	4,831 00	13,081 00
Sierra Vista District	1,820 00	323 00	1,497 00
Miscellaneous structures and real estate	2,358 00	272 00	2,086 00
Inventory of tools, equipment and supplies	2,544 00	----------	2,544 00
Totals	$61,230 00	$13,351 00	$47,869 00

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By applying to miscellaneous structures and real estate and tools, equipment and supplies a percentage of 67.14 for the City and Mountain View Districts, and 32.86 for the Cuyamaca District, Mr. Brinkley estimates a reproduction cost new of the entire property used and useful in connection with the City and Mountain View districts of $39,887.00, with a depreciated reproduction cost of $31,770.00 and an estimated reproduction cost new for the Cuyamaca District of $19,523.00, with estimated reproduction cost new less accrued depreciation of $14,602.00. Mr. Brinkley made no charge for these items to the Sierra Vista District, on the ground that these items were practically of no service in connection with the Sierra Vista District.

The chief differences between the estimates of Mr. Faude and Mr. Brinkley are with reference to the unit prices for standard screw pipe having a diameter of two inches and less, the overhead percentages and the real estate. Mr. Brinkley used average prices for pipe ranging over the last five years and took the actual conditions with reference to the necessary depth of trenches. Mr. Faude applied an overhead percentage of 14 per cent, except as to real estate, as to which he applied 10 per cent. Mr. Brinkley applied an overhead of 12 per cent, except as to real estate, with reference to which he applied 5 per cent. It is difficult to reach a satisfactory conclusion with reference to the value of the Fairmont Water Company's real estate. The testimony presented by a number of witnesses for Fairmont Water Company and the consumers shows that very little real estate has been sold in East San Diego during the last two or three years, and that there is at the present time a decided slump in the market. The estimates presented by Fairmont Water Company seem to be based largely on the prices which prevailed a number of years ago while real estate was moving freely in East San Diego.

An item of $100.00 should be added to the estimates of both Mr. Faude and Mr. Brinkley to cover improvements which are being made to better the service in the Sierra Vista District.

The testimony shows that the entire system of Fairmont Water Company was offered to the city of East San Diego a year or so ago for bonds of the city of East San Diego of the face value of $41,000.00, which bonds the officers of Fairmont Water Company expected to sell at 105 per cent of their face value. At an election called to consider this proposition, the citizens of East San Diego declined to vote the bonds.

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2. *Rate of Return.*

The evidence shows that the major portion of the water system of Fairmont Water Company was purchased or constructed by Pacific Building Company for the purpose of assisting Pacific Building Company to sell real estate. The testimony shows that while no definite amount was added by Pacific Building Company to the price of its lands to represent the cost of installing the water system, the prices asked included a sufficient amount for reimbursement for the water system, as is usually the case in such subdivisions. While it was contended by the consumers herein that the legal title to portions of the water system of Fairmont Water Company had passed to the purchasers of lands sold by Pacific Building Company, the evidence does not justify this claim. On June 1, 1914, Pacific Building Company separated its water operations from its land operations and transferred its water properties to the petitioner herein. Pacific Building Company owns all the stock of Fairmont Water Company with the exception of directors' shares. Testimony was presented herein to the effect that certain purchasers of lands from the Pacific Building Company in the Sierra Vista District were told by the agents of Pacific Building Company, at the time of their respective purchases, that the water rate would be a flat monthly payment of $1.25 until the last installment on the price of the property purchased had been paid, while other consumers testified that they had been told that the water rental would continue to be the flat rate of $1.25 indefinitely. Subsequently, due to excessive use of water by the residents of this district, meters were installed by Pacific Building Company and the rate was changed to the present meter rate.

In view of the circumstances surrounding the operations of this water system, I find that the sum of $2,393.00 is a fair annual return on the value of the property of Fairmont Water Company devoted to the service of the City and Mountain View districts, and that the sum of $115.00 is a fair annual return on the property devoted to the service of the Sierra Vista District.

3. *Depreciation Annuity.*

Fairmont Water Company asks an annual allowance for depreciation of $2,959.00, apparently based on the straight line method. I find that on the 4 per cent sinking fund basis, a reasonable annual allowance under the head of depreciation annuity is the sum of $1,537.00 for the City and Mountain View districts, and $64.00 for the Sierra Vista District.

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4. *Maintenance and Operating Expenses.*

The following table shows the operating revenues and operating expenses of Fairmont Water Company in the year 1915, as reported by Mr. Brinkley:

Table No. III.

Operating Revenues and Expenses—Fairmont Water Company—1915.

Operating Revenues.			
Commercial sales metered—			
City and Mountain View districts		$11,320 85	
Cuyamaca District		8,033 35	
Sierra Vista District		808 75	
Miscellaneous revenues		474 01	
Total			$20,636 96
Operating Expenses.			
Maintenance—			
Repairs to mains, services and meters		$4,044 06	
Operation—water purchased—			
City and Mountain View districts	$4,103 65		
Cuyamaca District	3,342 44		
Sierra Vista District	407 50		
Total		7,853 59	
Distributing expenses		670 00	
Commercial expenses		1,191 56	
General expenses		998 25	
Total operating expenses		$14,757 46	
Insurance		186 56	
Taxes		332 19	
Grand total operation			$15,276 21

One hundred and fifty dollars has been taken out of operating expenses on account of being chargeable to additions and betterments to the property.

The foregoing table gives the results for the entire system of Fairmont Water Company.

The testimony shows that the expenditures for repairs to mains were abnormal in 1915 by reason of the grading of streets and continual repairs to the Klauber street main. The superintendent of Fairmont Water Company testified that, in his opinion, the average cost of repairs to mains during the last seven months of 1914 would be a fair estimate per month for 1916. After considering the various items of maintenance and operating expenses concerning which testimony was produced at the hearing, I find that a reasonable allowance for maintenance

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and operating expenses for the year 1916, apart from the payments for water to be purchased from the city of San Diego, will be the sum of $7,084.00, on the assumption that the business for 1916 will be the same as the business for 1915. The testimony seems to show that an increase of business is not to be expected in 1916. Various segregations were suggested for the purpose of apportioning the maintenance and operating expenses, apart from the cost of water purchased from the city of San Diego, to the four districts of Fairmont Water Company. On the basis of the estimated reproduction cost new of the property in each of the four districts, the percentage to be applied to the various districts to determine their fair share of such maintenance and operating expense, would be 65.1 per cent to the City and Mountain View districts, 31.9 per cent to the Cuyamaca District and 3 per cent to the Sierra Vista District. On the basis of the average number of consumers, the percentages would be 60.8 per cent to the City and Mountain View districts, 35.2 per cent to the Cuyamaca District and 4 per cent to the Sierra Vista District. On the basis of the cubic feet of water used annually, the percentages would be 59.8 per cent to the City and Mountain View districts, 35.1 per cent to the Cuyamaca District and 5.1 per cent to the Sierra Vista District. Due to the compactness of the Sierra Vista District, the operating expenses properly chargeable to that district should not be proportionately as large as in the other districts. I am of the opinion that a fair percentage of apportionment of all maintenance and operating expenses, apart from the cost of water purchased from the city of San Diego, which cost should be charged separately to each district, is 61 per cent to the City and Mountain View districts, 35 per cent to the Cuyamaca District and 4 per cent to the Sierra Vista District. On this basis I find that the sum of $4,321.00 should be allowed under the head of maintenance and operating expenses, apart from the cost of water purchased, for the City and Mountain View districts and $283.00 for the Sierra Vista District. Adding to these sums $4,104.00 for water to be purchased for the City and Mountain View districts and $408.00 for the Sierra Vista District, being the amounts paid in 1915, I conclude that the total amount fairly chargeable to the City and Mountain View districts under the head of maintenance and operating expenses will be $8,425.00 and to the Sierra Vista District, $691.00.

5. *The Rate.*

The following table shows the annual gross income which Fairmont Water Company should receive from the City and Mountain View

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districts and the Sierra Vista District under the allowances herein found to be reasonable:

Table No. IV.

Annual Gross Income to Be Secured by Fairmont Water Company from City, Mountain View and Sierra Vista Districts.

	City and Mountain View districts	Sierra Vista District
Fair return on value of property	$2,393 00	$115 00
Depreciation annuity	1,537 00	64 00
Maintenance and operating expenses	8,425 00	691 00
Totals	$12,355 00	$870 00

In establishing the form of rate to yield this annual gross revenue, attention is at once directed to the fact that an unusually large number of consumers of Fairmont Water Company use materially less than 500 cubic feet of water per month. I have given careful consideration to Fairmont Water Company's request that the minimum monthly rate be established at $1.25, but have reached the conclusion that the present monthly minimum rate of $1.00 in effect in the City and Mountain View districts is more appropriate to the use under this particular system, and that this rate should also be extended to the Sierra Vista District.

After a careful review of all the testimony herein, I find that the following rates are just and reasonable rates to be charged by Fairmont Water Company in the City, Mountain View and Sierra Vista districts:

Minimum	$1 00 monthly
First 500 cubic feet	20 per 100 cubic feet
Next 2,500 cubic feet	16 per 100 cubic feet
All water used in excess of 3,000 cubic feet	12 per 100 cubic feet

The application of this rate to the Fairmont Water Company's business for the year 1915, which business it is agreed shall be taken as the basis for the rates herein established, will yield the annual gross income herein found to be reasonable.

6. *Service.*

Residents of Sierra Vista District testified that difficulty has been experienced by them, particularly by the residents on the higher elevations during the summer time, in securing an adequate supply of water. Representatives of Fairmont Water Company admitted that the conditions have not been satisfactory and presented testimony to show that the improvements which the company is now making will remedy

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this condition. I am satisfied that Fairmont Water Company is using its best efforts to improve the service and that no order under this head is now necessary.

I submit the following form of order:

ORDER.

Fairmont Water Company having applied to the Railroad Commission for an order authorizing an increase in the rates charged by said company for water sold in its City, Mountain View and Sierra Vista districts, in and adjacent to the city of East San Diego, and a public hearing having been held herein,

The Railroad Commission hereby finds as a fact that the rates now charged by Fairmont Water Company in said districts are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged by Fairmont Water Company in said districts.

Basing its order on the foregoing findings of fact and on the findings of fact which are contained in the opinion which precedes this order,

It is hereby ordered that Fairmont Water Company be and the same is hereby authorized to file with the Railroad Commission, effective for the meter readings to be made in the latter part of the month of May, 1916, the following schedule of rates to be charged by Fairmont Water Company in its City, Mountain View and Sierra Vista districts:

Minimum	$1 00 monthly
First 500 cubic feet	20 per 100 cubic feet
Next 2,500 cubic feet	16 per 100 cubic feet
All water used in excess of 3,000 cubic feet	12 per 100 cubic feet

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of May, 1916.

DECISION NO. 3313.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-OREGON POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 2166.

Decided May 8, 1916.

Applicant applies for a certificate permitting the exercise of rights granted under a franchise which it has secured authorizing the construction of transmission lines in Trinity County. It proposes primarily to serve a certain gold dredging company. Protestants, objecting to the granting of such application, contend that they are better situated to serve this particular consumer.

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Held, That the cost of construction of a transmission main from the system of applicant would be far less than the cost of similar construction from the system of Northern California Power Company, the only protestant so situated as to be capable of serving the dredging company, and as the rate proposed by both companies is the same, application granted, applicant to file with the Commission a stipulation to the effect that it shall not claim hereafter a value for such franchise other than the actual cost thereof.

Morrison, Dunne & Brobeck and *H. H. Phleger*, for Applicant.

R. H. Cross and *Allan P. Matthew*, for Trinity Gold Mining and Reduction Company.

John F. Davis and *Edward Whaley*, for Northern California Power Company.

E. DeLos Magee, for Trinity County Water and Power Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This is an application by California-Oregon Power Company for a certificate that public convenience and necessity require the exercise by it of the rights and privileges conferred under the terms of a franchise granted by the board of supervisors of Trinity County on January 7, 1915, in so far as said franchise provides for the distribution and sale of electric energy in that portion of Trinity County lying north of 40 degrees 50 minutes north latitude.

The applicant proposes particularly to serve the Yukon Gold Company on Coffee Creek, about 3 miles north of Carrville.

To reach the plant of the Yukon Gold Company, the applicant states that it would construct a transmission line from Castella, Shasta County, over a route which is variously estimated from 22 to 28 miles in length. The applicant estimates the cost of this line from $40,000.00 to $56,000.00.

Under date of February 28, 1916, California-Oregon Power Company entered into a contract with the Yukon Gold Company to furnish it on or before September 1, 1916, with electric energy for the operation of its gold dredger. This contract is, of course, subject to the authority of this Commission.

Under the contract California-Oregon Power Company is to receive three-fourths of 1 cent per kilowatt hour for its electric energy. Yukon Gold Company agrees to advance $25,000.00 toward the construction of the transmission line from Castella. It is further provided that the amount thus advanced by the Yukon Gold Company shall be applied upon its power bills at the rate of 25 per cent of each bill until it shall have been reimbursed for the full amount advanced.

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In these proceedings the following appeared as intervenors or protestants:

Trinity Gold Mining and Reduction Company;
Northern California Power Company, Consolidated;
Trinity County Water and Power Company.

Trinity Gold Mining and Reduction Company owns and operates a 320 kilowatt hydroelectric power plant, located near Carrville, Trinity County. This electric plant was built for the purpose of furnishing power to the Headlight Mine, owned by the same interests who own and operate the power plant. The power plant was designed and constructed primarily for the purpose of supplying the needs of the company in its mining business. The operation of the Headlight Mine was suspended in 1912, and shortly thereafter the Trinity Gold Mining and Reduction Company entered into a contract to supply 250 kilowatts of electric energy to the Alta Bert Dredging Company, operating a gold dredger near Trinity Center. Such electrical energy as it does not use, the Alta Bert Dredging Company retails to its employees and a few consumers at Trinity Center. Ten or twelve residences are thus furnished with electric energy through the medium of the Alta Bert Dredging Company.

Under its contract with the Alta Bert Dredging Company the Trinity Gold Mining and Reduction Company retains the right, under certain conditions, to discontinue service.

The Trinity Gold Mining and Reduction Company alleges that it is a public utility, and that it has adequately met all demands for service within the territory it serves, and that it is now prepared to furnish to the Yukon Gold Company such electric energy as it requires at the same rate offered by the California-Oregon Power Company. It further alleges that it has entered into a contract with the Northern California Power Company, Consolidated, under which it can obtain the additional electric power necessary to serve the Yukon Gold Company. It therefore asks this Commission to deny the application of the California-Oregon Power Company for a certificate of public conveyance and necessity to serve this territory.

Northern California Power Company, Consolidated, a protestant herein, alleges that it is now serving the Lappin Mine in Trinity County, located a few miles west of the boundary line between Trinity and Shasta counties; that it has been and is prepared adequately and at reasonable rates to serve the section of Trinity County which California-Oregon Power Company now proposes to enter; and that it has entered into an agreement to sell to Trinity Gold Mining and Reduction Company a sufficient amount of power to enable the latter to serve adequately the Yukon Gold Company. Northern California Power

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Company, Consolidated, also asks this Commission to deny the application of California-Oregon Power Company under consideration herein.

In further support of its contention, Northern California Power Company, Consolidated, alleges that the construction proposed by California-Oregon Power Company is beset with unsurmountable difficulties, as the transmission line is projected to cross through the mountains at a maximum elevation of 5,500 feet. It further alleges that the cost of the new line would be in excess of the sum claimed by the California-Oregon Power Company, and that it would be far more economical for the Northern California Power Company, Consolidated, to construct its transmission line to the plant of the Trinity Gold Mining and Reduction Company.

Trinity County Water and Power Company, which intervenes in these proceedings, owns a hydroelectric plant located on the east fork of the Trinity River. This plant was designed and built for the purpose of furnishing electric energy to the Trinity Bonanza King Mining Company, which operates the Bonanza King Mine.

Mr. E. DeLos Magee, receiver of the California Safe Deposit and Trust Company, who by virtue of his position, has control of the Trinity County Water and Power Company, stated that the property of the last named company is under contract of sale, and that he appeared in this proceeding simply to show the existence of the hydroelectric plant, that it was in operation and that it was capable of producing a certain amount of power and of furnishing power in the vicinity of Carrville and Trinity Center. The present installation has a capacity of 750 kilowatts. The Bonanza King Mine at the present time uses 200 horsepower. No other consumers are being served by this plant.

California-Oregon Power Company, in reply to the allegations of the intervenor and protestants, states that it offered to purchase the full output of power of the Trinity Gold Mining and Reduction Company at the present basis of sale of such power and to supply its patrons; that it is not its intention, if this application be granted, to deprive Trinity Gold Mining and Reduction Company of the business which it now has; that Trinity Gold Mining and Reduction Company was designed to be and is a mining plant facility, and that it has so shown by selling a portion of its water rights.

California-Oregon Power Company alleges further that it gave public notice of its desire to serve Trinity County when it made application and obtained its franchise in January, 1915; that it secured the contract of sale to the Yukon Gold Company in competition with Northern California Power Company, Consolidated; that the plant of Yukon Gold Company may be reached at least as reasonably and economically

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over its proposed transmission line as through the medium of the transmission lines which Northern California Power Company, Consolidated, would be compelled to build; and that having discovered the field for the sale of its electric energy and having offered as favorable rates for the business as any other company, and being able and willing to give adequate service, it should be entitled to enter therein.

I am impressed with the fact that both Trinity Gold Mining and Reduction Company and Trinity County Water and Power Company have been designed and operated primarily as plant facilities. Although it is clear that the Trinity Gold Mining and Reduction Company is a public utility, it has confined itself to the service of the Alta Bert Dredging Company, and this with the reservation permitting it to withdraw such service. I am of the opinion, therefore, that there is little merit in the protests filed by these two companies. The same may be said of the protest of the Northern California Power Company, Consolidated, in so far as it relies, if such it does, upon Trinity Gold Mining and Reduction Company to obtain for it indirectly the business which California-Oregon Power Company now seeks.

It would appear therefore that California-Oregon Power Company and Northern California Power Company, Consolidated, would both be under the necessity of constructing transmission lines to obtain the business of the Yukon Gold Company, the former having a length of 22 to 28 miles to construct and the latter 32 to 35 miles. While the exact cost of these lines is in question, Northern California Power Company, Consolidated, estimates that an expenditure of $78,600.00 would be necessary on its part. California-Oregon Power Company has estimated its required expense at $40,000.00, but I believe that the figure would be in excess of that sum but probably not in excess of the cost of Northern California Power Company, Consolidated. Both companies have estabished the fact that they have or will shortly have a surplus supply of electric energy and both have offered to take on the new business at three-fourths of 1 cent for a kilowatt hour.

California-Oregon Power Company, alone of the parties to this proceeding, has obtained a franchise from Trinity County.

Trinity County is sparsely settled and the field now in controversy may reasonably be construed to be open territory. I am persuaded by all of the circumstances in this case that California-Oregon Power Company should be granted authority to serve this section of Trinity County, and accordingly I recommend the following order:

ORDER.

California-Oregon Power Company having applied to this Commission for a certificate that public convenience and necessity require the exercise by it of the rights and privileges conferred under the terms of a franchise granted by the board of supervisors of Trinity County on

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January 7, 1915, in so far as said franchise provides for the distribution and sale of electric energy in that portion of Trinity County lying north of 40 degrees 50 minutes north latitude, and a hearing having been held, and this Commission having been advised in the premises,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by California-Oregon Power Company of the rights and privileges conferred by the franchise granted by the county of Trinity on January 7, 1915, in so far as said franchise provides for the distribution and sale of electric energy in that portion of Trinity County lying north of 40 degrees 50 minutes north latitude; provided that California-Oregon Power Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that California-Oregon Power Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said rights and privileges in excess of the actual cost to California-Oregon Power Company of acquiring said rights and privileges, which cost is represented by California-Oregon Power Company to have been $762.90, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of May, 1916.

DECISION No. 3314.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS AND POWER COMPANY FOR AN ORDER PRELIMINARY TO THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY ALLOWING SAID COMPANY TO EXERCISE RIGHTS AND PRIVILEGES UNDER A FRANCHISE TO BE SECURED.

Application No. 1485.

MIDLAND COUNTIES PUBLIC SERVICE CORPORATION

vs.

SANTA MARIA GAS AND POWER COMPANY.

Case No. 747.

Decided May 8, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

In the order heretofore made in this proceeding on April 4, 1916, it was declared by the Commission that public convenience and necessity

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require, and will require, the exercise by the Santa Maria Gas and Power Company of the rights and privileges granted to it by Ordinance No. 43, N. S., of the city of San Luis Obispo, finally passed on the 19th day of April, 1915, provided, however, that the company shall first file with the Commission a stipulation, agreeing to certain matters set forth fully in said order; and said Santa Maria Gas and Power Company having, on April 11, 1916, filed with the Commission a stipulation covering the matters set forth in said order, and in form satisfactory to the Commission,

It is hereby ordered that said stipulation be and the same is hereby approved.

Dated at San Francisco, California, this 8th day of May, 1916.

DECISION NO. 3315.

MIDLAND COUNTIES PUBLIC SERVICE CORPORATION

vs.

SANTA MARIA GAS AND POWER COMPANY.

Case No. 747.

Decided May 8, 1916.

REPORT OF THE COMMISSION.

OPINION ON APPLICATION FOR REHEARING.

Complainant in the above entitled matter has filed herein its application for a rehearing, basing such application upon the ground that the complaint in Case No. 747 was dismissed because the Commission, in the course of the opinion in Application No. 1485, with which Case No. 747 was consolidated, declared that the finding of the Commission that the certificate of public convenience and necessity should be granted in Application No. 1485 "renders it unnecessary to pass upon the question of its dedication of its facilities, commodity and service," and contends that the defendant, Santa Maria Gas and Power Company, is under a legal obligation to transport gas offered to it by the public for transportation, and that the complainant is entitled, as a matter of law, to the finding and decision of the Railroad Commission of the State of California upon the evidence offered in support of that contention.

The application for rehearing has been thoroughly considered and all the evidence in the record has been considered in connection therewith, and in our opinion the evidence fails to justify the contention of complainant that the Santa Maria Gas and Power Company is under legal obligation to transport gas offered to it by the complainant.

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ORDER.

Complainant having filed herein its application for rehearing in the above entitled case, which application has been duly considered, and basing its order upon the foregoing opinion,

It is hereby ordered that the said application for rehearing be and the same is hereby dismissed.

Dated at San Francisco, California, this 8th day of May, 1916.

DECISION NO. 3316.

IN THE MATTER OF THE APPLICATION OF WHITTIER WATER COMPANY FOR PERMISSION TO EXERCISE PERMIT.

Application No. 2190.

Decided May 8, 1916.

Applicant having secured a temporary permit authorizing the laying of a water main to enable it to serve certain irrigationists with water, applies for permission to exercise rights thereunder pending action upon its application for a franchise, and it appearing that the irrigation service it proposes is necessary, application granted, provided it shall apply for certificate as soon as franchise is obtained.

REPORT OF THE COMMISSION.

This is an application of Whittier Water Company, a corporation, engaged in the business of furnishing water, principally for irrigation purposes, to consumers in East Whittier and its vicinity, for permission to exercise the rights and privileges conferred by a permit of the county of Los Angeles to lay pipe along the county road into territory not now served by applicant.

A public hearing was held in Whittier April 26, 1916. From the evidence it appears that two tracts of land, one known as the Orchard Dale tract and the other as the Luitwieler tract, situated from one to two miles from applicant's pipe line, have each, for some time past, been supplied by mutual water companies. The Orchard Dale tract contains 605 acres, divided into 103 lots. The whole tract is under cultivation and is owned by 65 separate holders. The Luitwieler tract contains 227 acres, 101 acres of which are now under cultivation, divided into from 5 to 7-acre holdings.

The respective mutual water companies supplying these two tracts have each come to the conclusion that it would be cheaper for the landowners to obtain their water from applicant at its prevailing rates than to continue to operate their own plants, and the testimony of Mr. A. Moore, of the Orchard Dale Mutual Water Company, and that of Dr. R. L. Morrison, president and manager of Luitwieler Irrigation Company, strongly corroborated this conclusion. Both of the mutual

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companies are extremely anxious to have applicant commence supplying their customers with water in the very near future in order to be relieved from overhauling and commencing to operate their plants this season. In order to supply these tracts permanently it will be necessary for applicant to obtain a franchise from the county of Los Angeles. It has already applied for such a franchise and has expectation of obtaining the same, but the delays incidental to advertising and the giving of the customary notices will probably consume ninety or more days from the date of the application (March 20, 1916).

In order to be able to furnish water to the consumers on the above mentioned tracts in time for this year's irrigation season, Whittier Water Company applied to the board of supervisors of Los Angeles County for permission to construct or lay an 18-inch wood stave pipe from applicant's main on the Los Angeles and Santa Ana road, a distance of 10,255 feet along the Colima road. This permission was granted by the county under the designation of Permit 5382.

According to the testimony of Mr. George Chaffee, applicant's president and manager, his water company at present furnishes a steady supply of 140 miner's inches of water to the various consumers in East Whittier, and also furnishes these consumers with any further amount of water which they may desire upon a metered basis. He estimated the amount of water which will be required by the Orchard Dale and the Luitwieler tracts as follows:

Normal amount of water required for Orchard Dale tract	60 inches	
Maximum additional water which will be needed for two or three days two or three times a year	90 inches	
Total maximum demand		150 inches
Normal amount of water required for Luitwieler tract	20 inches	
Maximum additional water which will be needed for two or three days two or three times a year	30 inches	
Total maximum demand		50 inches
Total maximum for the two tracts		200 inches

Mr. Chaffee further testified that applicant now has a capacity of 500 inches of water even in the driest portions of dry seasons and that his company had never in the past run short of water except for occasional interruptions in service for a day or two owing to accidents. He further stated that applicant would be ready and willing to operate the present pumping plants of the mutual water companies in order to furnish additional water if the supply should ever in the future run short. Finally, he testified that applicant was at present concluding negotiations for the settlement of certain legal questions through which he expected Whittier Water Company to establish its right to an additional 900 inches of water.

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Under all the circumstances and in order to avoid delay and unnecessary hardship to applicant and to the consumers on the Orchard Dale and Luitwieler tracts, we feel that this application should be granted upon the understanding, however, that if the county of Los Angeles grants applicant the franchise requested, applicant shall then apply to this Commission for a certificate that public convenience and necessity require the exercise by said corporation of rights and privileges under said franchise.

ORDER.

Whittier Water Company having applied to this Commission, under section 50 of the Public Utilities Act, for permission to exercise rights and privileges under Permit No. 5382, granted by the county of Los Angeles Road Department on March 29, 1916, and a public hearing having been held, and the matter being now ready for decision,

The Railroad Commission of California declares that public convenience and necessity require the laying, in accordance with the provisions of Permit No. 5382, by Whittier Water Company of an 18-inch main along the Colima road in Los Angeles County from applicant's main on the Los Angeles and Santa Ana road to the tracts known as the Orchard Dale and the Luitwieler tracts, a distance of between 9,000 and 10,000 feet; provided that upon the granting by the county of Los Angeles of the franchise for which application has been made as set forth in the foregoing opinion, applicant shall file a supplemental application for a certificate, under the provisions of section 50 of the Public Utilities Act, that public convenience and necessity require the exercise by said corporation of rights and privileges under said franchise.

Dated at San Francisco, California, this 8th day of May, 1916.

DECISION No. 3317.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND SOUTHEASTERN RAILWAY COMPANY FOR INSTRUCTIONS AND ADVICE AS TO THE FEASIBILITY AND UTILITY OF RECONSTRUCTING CERTAIN PARTS OF ITS RAILWAY SYSTEM DESTROYED BY FLOODS.

Application No. 2119.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND SOUTHEASTERN RAILWAY COMPANY FOR AN ORDER AUTHORIZING A REDUCTION IN THE NUMBER OF TRAINS OPERATED.

Application No. 2197.

Decided May 8, 1916.

Applicant's system having been considerably damaged by floods, it applies to the Commission for advice as to which portions it shall rebuild. The system was heretofore operated at a considerable annual loss.

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Engineer's reports covering cost of rebuilding washed-out portions of applicant's line and estimates of probable revenues and expenses thereof considered, and the following suggestions made: (1) Reconstruct Coronado Belt Line across Sweetwater Valley from Eighth avenue and Twenty-third street, National City, to Chula Vista; (2) reconstruct connecting track from Coronado Belt Line to existing track on Third avenue, Chula Vista; (3) electrify the above mentioned lines; (4) operate freight service between San Diego and the Salt Works and Third street, Chula Vista; (5) lease to the San Diego Electric Railway on terms suggested, existing line from Twenty-fourth street, San Diego, to National City, and the lines referred to above, the San Diego Electric Railway Company to operate them under schedules of rates suggested; provided, the city authorities of National City and Chula Vista pass ordinances properly regulating the autobus traffic. No recommendations made with reference to the reconstruction of line to Lakeport or Foster, as conditions at present do not warrant same.

Applicant's petition for permission to put into effect certain reduced operating schedules granted as to that portion of the eastern division now operated; however, schedules affecting southern division held in abeyance pending action on recommendations herein made.

R. G. Dilworth, for Applicant.

J. W. Puterbaugh, city attorney, for National City.

F. D. Andrews, city attorney, for Chula Vista.

Edgar A. Luce, for residents of Lakeside.

T. B. Cosgrove, city attorney, for San Diego.

O. W. Cotton, Jr., for Pacific Building Company.

A. Haines, for certain residents of Chula Vista.

S. W. Switzer, in propria persona.

E. W. Peterson, for Imperial Beach and South San Diego.

B. J. Edmunds, for certain residents of National City.

T. B. Pierson, in propria persona.

REPORT OF THE COMMISSION.

THELEN and LOVELAND, *Commissioners.*

San Diego and Southeastern Railway Company, petitioner herein, owns a line of railway which, prior to the floods hereinafter referred to, was operated south from San Diego to Tia Juana, Otay and Sweetwater Dam, and east from San Diego to a station known as Foster. The two operating divisions of the railroad are known respectively as the southern division and the eastern division. Petitioner's line of railway was operated partly by steam and partly as an interurban electric railway.

The petition in Application No. 2119 alleges, in effect, that on or about January 27, 1916, owing to unusual floods, various portions of petitioner's lines of railway were completely washed out and destroyed, so that petitioner is able to operate no part of its railway except the eastern division from San Diego to Santee and the southern division from San Diego to the northern bank of the Sweetwater River.

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Petitioner asks the Railroad Commission for advice with reference to the reconstruction of portions of its line of railway and the resumption of operations thereon.

The petition in Application No. 2197 asks authority to reduce electric interurban service on the southern division from 56 to 37 one-way trips per day, and the service on the eastern division from six to five round trips per day. Petitioner's request is based on alleged heavy losses under the present operating schedules and traffic demands.

Public hearings in these proceedings were held in San Diego on April 8, 10, and 11, and May 4, 1916. By consent of all parties, these two proceedings were consolidated for hearing and decision.

The evidence shows that in the latter part of January, 1916, unprecedented floods occurred in San Diego County. On the eastern division, petitioner's line of railway from a point about one mile east of Santee to the end of the line at Foster, a distance of approximately 5.5 miles, was completely washed out, with the exception of short isolated portions, by the floods in the San Diego River and a tributary known as San Vicente Creek. On the southern division, floods in the Sweetwater River washed out the entire Sweetwater branch below Sweetwater Dam, a distance of 5.4 miles; also the interurban electric line between National City and Chula Vista, where this line crossed the river bottom, a distance of 1,350 feet; also the Coronado Belt Line between National City and Marmarosa, where this line crossed the river bottom, a distance of 4,700 feet. Floods in the Otay River washed out the tracks between Otay and Palm avenue in the bed of the river, a distance of 6,500 feet; also the major portion of the track between Salt Works and South San Diego, a distance of 6,600 feet; also the connecting track between these two lines, a distance of 1.22 miles. Floods in the Tia Juana River washed out two portions of track between Sehnell and Tia Juana, a total distance of 2,420 feet; also two portions of track on the Coronado Belt Line at South San Diego, a total distance of 2,300 feet. In addition to these main tracks, totalling 14.11 miles, siding and other tracks having a length of approximately 5.5 miles, on various portions of petitioner's line of railway, were destroyed. Of petitioner's main track mileage, 19.2 per cent was destroyed and of the other tracks, 27.8 per cent.

As a result of this destruction, petitioner was compelled temporarily to abandon operation on the eastern division beyond Santee, and on the southern division steam and interurban electric systems beyond the north bank of the Sweetwater River. On the eastern division, Riverview, Lakeside, Dexter and Foster are now without rail communication. On the southern division, Chula Vista, Otay, South San Diego and the entire Sweetwater Valley are entirely without railroad service, while the waterfront from Potash to Salt Works and the towns between Palm

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City and Tia Juana are being served, more or less satisfactorily, over the tracks of the San Diego and Arizona Railway Company.

Petitioner's operations were reviewed by this Commission in Decision No. 2971, rendered on December 11, 1915, in Application No. 1752, being an application of petitioner herein for an order authorizing petitioner to increase certain freight and passenger rates and fares and to decrease certain passenger fares. As appears in said decision, petitioner's net deficit during the year ending June 30, 1915, was $86,287.21, and its net operating deficit was $59,256.20. Before the increase in rates authorized in Decision No. 2971 could be made effective, the floods came. In addition to the loss in revenue from the communities which were isolated by the floods, petitioner has suffered further losses due to the fact that just prior to the effective date of the increase in passenger fares between San Diego and National City, beyond the city limits, from 5 cents to 10 cents, a large number of autobusses began operations between National City and San Diego. The testimony shows that during the ten-day period ending April 13, 1916, petitioner operated its electric interurban railway business between San Diego and National City at a daily railway operating loss of $50.91.

In view of the serious situation in which petitioner and the communities served by it found themselves by reason of the facts hereinbefore referred to, the Railroad Commission directed assistant engineer Paul Thelen and service inspector W. J. Handford to make a detailed analysis and report on the entire situation, including costs of reconstruction, traffic estimates, operating expenses and service conditions. The Commission directed that a plan of reconstruction and operation be presented, which should provide service where justified and reduce the operating and maintenance expenses of petitioner to a minimum consistent with reasonably adequate service. It was realized that in order to prepare a plan under which petitioner could continue operations at all it would be necessary to abandon entirely certain of the most unproductive portions of the system and to authorize the continuance of the present suspension of operations on other portions of the system. In accordance with these instructions the Commission's experts prepared reports which were submitted in evidence at the hearing held in San Diego on May 4, 1916.

Assistant engineer Paul Thelen confined his report primarily to the southern division, while service expert W. J. Handford prepared a report on the eastern division.

Mr. Thelen's report was marked Railroad Commission's Exhibit No. 2. The report estimates costs of reconstruction on the southern division as follows:

1. To reconstruct the Coronado Belt Line from Twenty-third street and Eighth avenue, National City, to F street in Chula Vista, a distance of 1.7 miles $24,033 11

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2. To construct a single track along F street in Chula Vista, connecting the Coronado Belt Line on the west with the existing tracks on Third avenue, Chula Vista, on the east, a distance of 1.31 miles ---------- 12,100 65
3. To electrify the Coronado Belt Line from Twenty-third street, National City, to F street, Chula Vista, and the line to be constructed along F street to connect with existing overhead construction on Third avenue in Chula Vista ---------- 7,615 96
4. To construct an industry spur from the corner of Third avenue and F street in Chula Vista to Bonita, in the Sweetwater Valley, a distance of approximately 2.932 miles ---------- 25,000 00

(of said $25,000.00, cost to the industry to be $17,000.00 and cost to the carrier to be $8,000.00.)

The foregoing estimates contemplate the use of all available usable old material from portions of the system to be abandoned. These estimates cover all reconstruction necessary to serve the communities which are to be served on the southern division for the transportation of both passengers and freight.

Mr. Thelen's plan contemplates that the passenger business of National City and Chula Vista will be conducted by San Diego Electric Railway Company over the tracks of petitioner herein on the basis of a rental of 10 cents per car mile plus maintenance of track and overhead from San Diego to Twenty-fourth street, National City, and 5 cents per car mile plus maintenance of overhead only from Twenty-fourth street, National City, to Third street, Chula Vista.

The following table shows revenues and expenses reasonably to be anticipated under said plan for the calendar year 1917, in so far as San Diego and Southeastern Railway Company's operations on the southern division are affected:

TABLE No. I.

Revenues and Expenses of San Diego and Southeastern Railway Company, Southern Division, 1917.

I.	Gross revenue from railway operations.		
	Freight:		
	1. Bonita ----------	$2,800 00	
	2. Chula Vista ----------	10,216 00	
	3. Waterfront ----------	32,756 00	
	4. Miscellaneous freight ----------	3,339 00	(L. C. L., etc.)
	5. Switching ----------	400 00	
	Total ----------		$52,500 00
II.	Other railway income.		
	1. Income from lease of road ----------		10,800 00
	2. Income from hire of freight cars ----------		500 00
	Total income ----------		$63,800 00

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III.	Railway operation expenses.	
	Maintenance of way and structures	$14,720 00
	Maintenance of equipment	9,105 00
	Traffic	1,720 00
	Transportation	17,605 00
	General	10,575 00
	Total	$53,725 00
IV.	Deductions.	
	Hire of freight cars	800 00
	Subtotal	$54,525 00
	Railway taxes	3,350 00
	Total	$57,875 00

Net revenue available for interest on unfunded debt and miscellaneous physical property expenditures $63,800.00 less $57,875.00 = $5,925.00 (southern division).

Deduct interest on unfunded debt	$15,000 00
Miscellaneous physical property expenditures	750 00
Total	$15,750 00

This leaves a net income available for dividends, surplus, etc., of *$9,825.00 for the 1917 operation of the southern division of the San Diego and Southeastern Railway Company.

The testimony shows that during the year ending June 30, 1915, the railway operating expenses on petitioner's southern division were as follows:

Maintenance of way and structures	$44,090 81
Maintenance of equipment	21,214 73
Traffic	1,789 45
Transportation	35,856 68
General	10,142 26
Total	$113,093 93

It will thus be observed that Mr. Thelen's plan will reduce the railway operating expenses on the southern division from $113,093.93 to $53,725.00 annually, being a reduction of over 50 per cent. The net revenue available for interest on unfunded debt and miscellaneous physical property expenditures will be increased from a deficit of $41,036.16 to a profit of $5,925.00.

This favorable showing is due in part to a saving in maintenance and operating expenses on the portions of track on which operations are to be suspended or abandoned and in part to an entire change in the method of handling the passenger business.

At present, Chula Vista, as the result of the floods, is deprived of railway passenger service. National City is being served under a 35-minute headway by petitioner herein, but at a railway operating loss of approximately $50.00 per day, as hereinbefore indicated. Petitioner

*Deficit.

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herein, in Application No. 2197, has asked authority to materially reduce the existing service, which authority this Commission would be compelled to grant, unless some other solution of the problem could be found. Such a reduction in service, coupled with the existing 10 cent rate between San Diego and points in National City beyond the city limits, would undoubtedly at once result in a still further large falling off of passenger traffic, resulting in still further reductions in service, and so on. If petitioner should embark on such a course, there could be but one end—the complete abandonment of all passenger service to National City and the loss of the entire investment, with the possible exception that petitioner might continue to run a single round trip daily to hold the franchise. Needless to say, such a result would be disastrous both to petitioner and to the people of National City and Chula Vista.

With this situation in mind, the Railroad Commission suggests an entirely different solution of the problem. Mr. Thelen has worked out the details of a plan by which the San Diego Electric Railway Company would serve National City and Chula Vista at a profit to itself, after paying a reasonable rental to petitioner herein for the use of its tracks. The testimony shows that if San Diego Electric Railway Company secures the business, it can reasonably expect an annual railway operating profit of $10,000.00 from the National City and Chula Vista business, less taxes of approximately $3,000.00, and possible heavy contributions to street work. By reason of substantial saving in maintenance and operating expenses, including a considerable reduction in duplicate car mileage from Thirty-first street, San Diego, north, San Diego Electric Railway Company, with its lighter equipment, can handle the National City and Chula Vista passenger business profitably while petitioner herein would operate at a loss. The testimony shows that the cost per car mile of passenger operation by petitioner herein would be approximately 33 cents as against 23 cents for San Diego Electric Railway Company. Mr. Thelen testified that in his opinion San Diego Electric Railway Company can make the operating profit hereinbefore referred to, by giving for the present a 40-minute service between San Diego and Twenty-fourth street, National City, during 18 hours of the day, with a 40-minute service during the hours of heavy travel and an 80-minute service during the middle of the day between Twenty-fourth street, National City, and Third street, Chula Vista. The time consumed on the run between San Diego and Chula Vista would probably be reduced from 5 to 10 minutes over that consumed before the floods.

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The plan herein set forth assumes a reduction in passenger fare between San Diego and National City points from the present 10 cent cash fare to a 15 cent round trip ticket purchased in strips of 10 for $1.50, to be used during the calendar month and transferable from the purchaser to any one else.

The consummation of this plan will ensure to National City and Chula Vista good service at reasonable rates by a strong, responsible, well qualified agency, as contrasted with the almost inevitable results to ensue from a continuance of operations by the petitioner herein, as hereinbefore set forth. San Diego Electric Railway Company, however, has definitely refused to undertake this service, and we can not recommend to San Diego Electric Railway Company that it engage therein, unless the cities of National City and Chula Vista provide reasonable regulation of the autobus traffic.

The plan herein outlined for the southern division contemplates temporary suspension of service from Salt Works to Tent City, Coronado, over the Coronado Belt Line, a service for which there is no longer a necessity, and from Palm avenue to Tia Juana over the old National City and Otay Railway Company's main line. The plan contemplates the abandonment of the entire Sweetwater branch, the National City and Otay main line from Twenty-fourth street, National City, past the Terrace, Sweetwater Junction and Chula Vista Hill to Third avenue and F street, Chula Vista, the National City and Otay main line from Third street, Chula Vista, south through Otay to Palm Station, and the connecting track on the floor of the Otay Valley from National City and Otay Junction to Coronado Junction. The communities from Palm Station to Tia Juana are already being served by the San Diego and Arizona Railway. With reference to the line between Twenty-fourth street, National City, and the north bank of the Sweetwater River, to be abandoned as hereinbefore indicated, the testimony shows that the four stations between these points, namely, Terrace, Olivewood, National avenue and the San Diego and Arizona Railway Crossing, supplied only one passenger per trip during the nineteen-day period from April 12 to 30, 1916, inclusive, the maximum revenue from this traffic being 15 cents per trip and the cost to petitioner 65 cents per trip.

Service Expert W. J. Handford presented a report on the eastern division, which was marked Railroad Commission's Exhibit No. 3. The report was based on a contemplated service of three round trip steam trains per day, two passenger and one mixed, between San Diego and Foster, Lakeside or Santee, respectively. The following table shows

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Mr. Handford's conclusions on the basis of a resumption of service to Foster:

TABLE No. II.

Income Statement for 1917, Assuming Construction to Foster.

Revenue from transportation.		
Passenger revenue	$39,100 00	
Freight revenue	96,848 00	
Excess baggage revenue	50 00	
Mail revenue	2,300 00	
Express revenue	1,850 00	
Other passenger train revenue	100 00	
Milk revenue	14,270 00	
Switching revenue	750 00	
Station privileges	100 00	
Storage—freight	25 00	
Storage—baggage	20 00	
Demurrage	50 00	
Total		$155,463 00
Other income.		
Hire of freight cars	$750 00	
Miscellaneous accounts	100 00	
		850 00
Total		$156,313 00
Operating expenses.		
Maintenance of way and structures	$37,750 00	
Maintenance of equipment	24,150 00	
Traffic expenses	6,000 00	
Transportation expenses	48,180 00	
General expenses	20,000 00	
	$136,080 00	
Miscellaneous deductions.		
Railway taxes	$8,161 00	
Hire of freight cars	1,165 00	
Interest on unfunded debt	9,425 00	
Miscellaneous tax accruals	775 00	
Uncollectible railway revenue	10 00	
	$19,536 00	
Estimated total income		$156,313 00
Operating expenses	$136,080 00	
Miscellaneous deductions from income	19,536 00	
Total, all expenses		155,616 00
Estimated net revenue		$697 00
The expense of rehabilitating the line to Foster in accordance with the estimate of the company's engineers amounts to $88,270.74. If this amount were spread over a five year period the annual extraordinary expense to be cared for would amount to		17,654 15
Estimated net loss for 1917		$16,957 15

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The following table shows Mr. Handford's conclusions on the basis of a resumption of service to Lakeside:

TABLE No. III.

Income Statement for 1917 Assuming Reconstruction to Lakeside.

Revenue from Transportation.		
Passenger revenue	$35,100 00	
Freight revenue	72,448 00	
Excess baggage revenue	50 00	
Mail revenue	2,000 00	
Express revenue	1,610 00	
Other passenger train revenue	100 00	
Milk revenue	11,350 00	
Switching revenue	750 00	
Station privileges	100 00	
Storage—freight	25 00	
Storage—baggage	20 00	
Demurrage	50 00	
		$123,603 00
Other income.		
Hire of freight cars	$750 00	
Miscellaneous accounts	100 00	
		850 00
Total		$124,453 00
Operating expenses.		
Maintenance of way and structures	$34,500 00	
Maintenance of equipment	21,010 00	
Traffic expenses	5,220 00	
Transportation expenses	44,405 00	
General expenses	20,000 00	
	$125,135 00	
Miscellaneous deductions.		
Railway taxes	$6,535 00	
Hire of freight cars	1,015 00	
Interest on unfunded debt	9,425 00	
Miscellaneous tax accruals	675 00	
Uncollectible railway revenue	10 00	
	$17,660 00	
Estimated total income		$124,453 00
Operating expenses	$125,135 00	
Miscellaneous deductions	17,660 00	
		142,795 00
Estimated net loss		$18,342 00
The expense of rehabilitating the line to Lakeside in accordance with the estimate of the company's engineers amounts to $45,524.98. If this amount were spread over a five year period the annual extraordinary expense to be cared for would amount to		9,104 99
Estimated net loss for 1917		$27,446 99

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The following table shows Mr. Handford's conclusions on the assumption that petitioner herein does not for the present reconstruct any of the washed out portions of its line on the eastern division but confines itself to three train per day operations to Santee:

TABLE No. IV.

Income Statement for 1917 Assuming Terminus at Santee.

Revenue from transportation.		
Passenger revenue	$27,660 00	
Freight revenue	62,248 00	
Excess baggage revenue	50 00	
Mail revenue	1,745 00	
Express revenue	1,403 04	
Other passenger train revenue	100 00	
Milk revenue	8,000 00	
Switching revenue	750 00	
Station privileges	100 00	
Storage—freight	25 00	
Storage—baggage	20 00	
Demurrage	50 00	
		$102,151 04
Other income.		
Hire of freight cars	$750 00	
Miscellaneous accounts	100 00	
		850 00
Total		$103,001 04
Operating expenses.		
Maintenance of way and structures	$31,250 00	
Maintenance of equipment	18,115 00	
Traffic expenses	4,500 00	
Transportation expenses	40,610 00	
General expense	20,000 00	
	$114,475 00	
Estimated total income		$103,001 04
Miscellaneous deductions.		
Railway taxes	$5,933 00	
Hire of freight cars	965 00	
Interest on unfunded debt	9,425 00	
Miscellaneous tax accruals	600 00	
Uncollectible railway revenue	100 00	
	$17,023 00	
Operating expenses	$114,475 00	
Miscellaneous deductions	17,023 00	
		131,498 00
Estimated net loss		$28,496 96

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The expense of providing terminal facilities at Santee, provided the eastern terminus remains at such station, is estimated by the company's engineers in amount $7,692.71. Included in this amount is the erection of a passenger and a freight station, neither of which have previously been in evidence. The cost of these two structures, including allowance for contingencies, engineering and superintendence, is estimated at $2,934.75, all of which would be chargeable to capital account and should be deducted from an estimate dealing with extraordinary operating expense necessitated by flood damage and re-establishment of terminal. The net rehabilitation cost chargeable to operation would therefore be the sum of $4,757.96, which spread over a five-year period as used previously would charge for the year 1917 the sum of	951 59
Estimated net loss	$29.448 55

In order that Tables II, III and IV shall be complete, it will be necessary to add in each case interest on the funds necessary for reconstruction.

The foregoing tables show that, even with a reduction in service from six round trips per day as at present to three round trips per day, there will be a net loss under each of the three plans. We desire, however, to draw attention particularly to the fact that the loss will be greatest if operations are terminated at Santee and least if the railway is reconstructed to Foster. The computations as far as Foster is concerned, however, are based on the assumption that petitioner will regain a considerable portion of the back country business which, subsequent to the floods, has gone to autotrucks.

We desire further to draw the attention of petitioner particularly to that portion of Mr. Handford's report which discusses the possibility of effecting substantial savings in operating expenses by substituting gasoline motor cars for the present steam passenger service. Mr. Handford testified that the continued operation of steam passenger trains on the eastern division can not be continued unless a very substantial loss is to be assumed. He testified that the petitioner's present steam passenger operation on the eastern division is costing $1.458 per train mile, and that the comparable cost of gasoline motor car operation would be only 58 cents per car mile, both figures including a proper allowance for maintenance of way and structures.

Mr. Wm. Clayton, vice president and general manager of San Diego and Southeastern Railway Company and San Diego Electric Railway Company, testified that San Diego Eectric Railway Company is willing to operate passenger service between San Diego, National City and Chula Vista in accordance with Assistant Engineer Paul Thelen's plan, provided that the cities of National City and Chula Vista put into effect reasonable regulations for autobusses. He thought that San Diego Electric Railway Company would be able to offer concessions over the existing rates of petitioner as follows:

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(1) Between San Diego and National City points, 15-cent round trip tickets to be purchased in strips of 10 for $1.50, all to be used within the calendar month, transferable from the purchaser to any one else, but without transfer except at Thirty-first street, San Diego. The present fare is 10 cents cash each way. The fare to and from the city limits is to remain 5 cents each way.

(2) Between San Diego and National City points, 20-cent round trip tickets to be purchased in strips of 5 for $1.00, all to be used within the calendar month, to be transferable from the purchaser to any one else, and to include transfer privileges over the entire system of San Diego Electric Railway Company.

(3) Between San Diego and Chula Vista, 40-cent round trip tickets to be purchased in strips of 5 for $2.00, all to be used within the calendar month, to be transferable from the purchaser to any one else and to include transfer privileges over the entire system of San Diego Electric Railway Company. The single trip fare to and from Chula Vista before the floods was 20 cents cash each way.

Mr. Clayton referred to a 30-minute service during rush hours morning and evening with a one-hour service at other periods of the day between San Diego and National City. This service would involve practically the same daily car mileage as the 40-minute service continuous throughout the day suggested by Mr. Thelen. The evidence does not show that the 30-minute service can be supplied economically without the construction of an additional passing track. Mr. Clayton further testified that he would try to establish a schedule which would eliminate one of the two transfers involved in the proposed Chula Vista passenger operation.

The Commission's suggestions, asked for in the petition in Application No. 2119, will be found in the order herein.

In Application No. 2197, as hereinbefore indicated, petitioner asks authority to make substantial reductions in the passenger service on the southern division and to reduce the service on the eastern division from 6 to 5 round trips per day. The need for the authority requested, in so far as the southern division is concerned, will have ceased when San Diego Electric Railway Company shall start operations on the southern division. In view of the statements of the chairmen of the boards of city trustees of National City and Chula Vista, we assume that the necessary ordinances regulating autobus traffic will be adopted promptly. If for some unforeseen reason this should not be done, the Commission would be compelled, very regretfully, to grant this part of the prayer of the petition in Application No. 2197.

The petition, in so far as the eastern division is concerned, should be granted. In view of the testimony presented by Service Expert W. J. Handford with reference to the unprofitableness of passenger operations

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on the eastern division and the limited traffic demands, petitioner may desire to consider a three-train-per-day schedule until it can place in operation more economical self-contained units such as gasoline or electric motor cars.

We submit the following form of order:

ORDER.

Public hearings having been held in the above entitled proceedings, and said proceedings having been consolidated for hearing and decision and being now ready for decision, the Railroad Commission, in accordance with the request of petitioner in Application No. 2119, hereby makes the following suggestions with reference to the reconstruction and operation of petitioner's line of railway:

1. That petitioner reconstruct the Coronado Belt Line across the Sweetwater Valley from Eighth avenue and Twenty-third street, National City, to F street, Chula Vista.

2. That petitioner construct a connecting track along F street, Chula Vista, from the Coronado Belt Line to the existing track on Third avenue, Chula Vista.

3. That petitioner electrify the lines to be constructed under (1) and (2) hereof.

4. That petitioner operate freight service between San Diego on the north and Salt Works and Third street, Chula Vista, on the south.

5. That petitioner lease to the San Diego Electric Railway Company, on the terms suggested in the opinion herein, petitioner's existing line of electric railway from San Diego to Twenty-fourth street, National City, and the line of railway referred to in (1), (2), and (3) hereof. This suggestion contemplates the operation of said line by San Diego Electric Railway Company under substantially the service testified to by Assistant Engineer Paul Thelen and the concessions in rates testified to by Mr. Wm. Clayton as set forth in the opinion herein, provided that the cities of National City and Chula Vista shall adopt ordinances providing for reasonable regulation of autobusses.

6. While, in view of the new capital which would be necessary if petitioner reconstructed its line of railway to Lakeside or to Foster or constructed an industry spur to Bonita, we do not feel warranted at the present time in specifically directing such action, we draw these situations particularly to petitioner's attention and express the hope that petitioner may find it possible to reconstruct its line to serve these communities. If petitioner does not see its way clear to make such reconstruction at the present time, we hope that it will keep these situations in mind and resume service to these communities as soon as conditions warrant such action. In the meantime, the situation with reference to these communities will be left open.

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It is hereby ordered that the petition in Application No. 2197 be granted in so far as it affects the eastern division, the new time table to become effective upon filing with the Railroad Commission, and that said application, in so far as it relates to the southern division, be held in abeyance, in accordance with the opinion herein, until the further order of the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of May, 1916.

DECISION No. 3318.

IN THE MATTER OF THE APPLICATION OF NORTH FORK DITCH COMPANY FOR APPRAISEMENT OF ITS PROPERTY AND ADJUSTMENT OF WATER RATES.

Application No. 1524.

Decided May 8, 1916.

Certain consumers heretofore receiving service free, for which service a rate was established, apply for a rehearing, contending that the water thus diverted was surplus water and did not deplete the supply furnished other consumers. Applicants' contention does not refute the fact that water was appropriated for a public use and subsequently diverted for private benefit. Petition for rehearing denied.

REPORT OF THE COMMISSION.

OPINION ON APPLICATION FOR REHEARING.

This application for rehearing is made on behalf of A. N. Buchanan, Charles S. Gibbons and Samuel Jones, and the only modification asked to be made in the decision heretofore rendered herein is that the Commission recede from its declaration in the opinion preceding the order that sixteen inches of water claimed by these applicants should be charged for by North Fork Ditch Company at the rates paid by other consumers.

Applicants allege that certain testimony of Isaac Hinkle was overlooked by the Commission, which testimony it is claimed establishes a different state of facts with relation to the status of this sixteen inches of water than is set out in the decision.

We have very carefully reread the entire testimony of Mr. Hinkle, and while it is true that when recalled to the witness stand he made some statements which tend to refute other statements made by him, still, reading his testimony as a whole, we think it is clear that it establishes the proposition that at the time the board of directors of North Fork Ditch Company by resolution attempted to convey sixteen inches of water to these applicants or their predecessors, all of the

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water of this ditch company, including this sixteen inches, was being used and paid for at regular rates, and that the sixteen inches of water taken by these applicants or their predecessors under said resolution did deplete the supply of those who had been using water from this ditch system.

Applicants contend that there was a surplus of water not being used, and that these sixteen inches of water were legally granted to applicants or their predecessors, and immediately and continuously thereafter put to a beneficial use, and that this does not bring this water within the rule laid down in the case of *Leavitt* vs. *Lassen Irrigation Company,* 157 Cal. 82. As applicants put it, "if it be conceded that, as the evidence clearly shows, there was an abundance of water for all desiring to use at the time the right was given to Buchanan, then his right became fixed and vested and can not be divested or disturbed by circumstances arising subsequently. It appears in evidence that since that time the demand for water has increased, but still that there is an abundant supply for all within the territory sought to be covered. This circumstance alone, in the absence of any direct testimony, clearly shows that the right of the public was in no manner adversely affected when the grant to Buchanan was made."

This contention ignores the rule laid down in said case of *Leavitt* vs. *Lassen Irrigation Company*, which in effect is that where water is appropriated for sale or rental to the public, there can not be carved out of this public use a private use. There is no question here but that the company appropriated water for sale, rental and distribution to the public, and the sixteen inches of water in question was included within the amount thus appropriated. Applicants do not claim that Buchanan, or any of their predecessors, ever made an appropriation of these sixteen inches of water, and the only effect of showing that at the time these sixteen inches of water were taken out of general use there was a surplus of water over and above that which was needed for this general use, would be to show that all of the water appropriated by the company was not being put to a beneficial use, and it might be that the company thereby would lose its right to this surplus, but this would not inure to the benefit of Buchanan and the predecessors of applicant unless they appropriated this surplus for their own use.

As an additional reason for denying this application for rehearing, attention is called to the fact that it was filed fourteen days after the effective date of the order herein.

We recommend that this application for rehearing be denied.

ORDER.

Application having been made for a rehearing in the above entitled matter, and it appearing to the Commission for the reasons set out in the foregoing opinion that said application should be denied,

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It is hereby ordered by the Railroad Commission of the State of California that the application for rehearing herein be and the same is hereby denied.

Dated at San Francisco, California, this 8th day of May, 1916.

DECISION No. 3319.

IN THE MATTER OF THE APPLICATION OF POMONA VALLEY TELEPHONE AND TELEGRAPH UNION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF ONE HUNDRED THOUSAND DOLLARS.

Application No. 400.

Decided May 10, 1916.

Applicant, heretofore authorized to issue bonds, now applies for permission to use the proceeds thereof for a different purpose than that originally specified, and such items being proper capital charges, application granted.

Nichols & Pitzer, for Applicant.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

Applicant seeks a modification of the order directing the application of the proceeds of the sale of its issue of $100,000.00 in 6 per cent bonds contained in Decision No. 494, of March 11, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 272).

By said decision applicant was authorized to sell its bonds at par, and $35,000.00 face value of its bonds were so sold. The effective date of the order was extended from time to time, and by Decision No. 2163, of February 23, 1915 (Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 196), it was authorized to sell its remaining bonds at 95 per cent of their face value. Under the latter order $4,500.00 face value of bonds were sold some time ago, and during April, 1916, the remaining $60,000.00 face value of bonds were sold at that price and the proceeds placed in bank.

During the business depression, owing to the difficulty experienced in selling bonds, it was found advisable to use current revenues for some of the purposes specified in the original order. The following table shows the authorization in the original order, the application of proceeds of

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bond sales and of revenues to the same purposes, with the modification in the order sought herein:

Purposes used or to be used for	Decision No. 494	Paid from bonds sold	Paid from revenues	Order now desired
Retiring bonds, issue of 1904	$10,000 00	$6,000 00	$2,000 00	$2,000 00
Retiring coupon notes	40,500 00	10.350 00	3,871 22	5,000 00
Liquidating bills payable	18,500 00	16,204 66		*23,574 12
Liquidating open accounts	6,837 00	4,220 34	2,616 66	----------
Purchase of lot in San Dimas	4,000 00	----------	4,000 00	----------
Extension and improvement of system	20,163 00	3,000 00	----------	26,425 88
Discount on $4,500.00 of bonds sold prior to April 1, 1916	----------	225 00	----------	----------
Discount on $60,000.00 bonds sold since April 1, 1916	----------	----------	----------	3,000 00
Totals	$100,000 00	$40,000 00	$12,487 88	$60,000 00

*Itemized in the order.

Applicant began business in 1904, entering the local field in competition with Pacific Telephone and Telegraph Company, and now occupies the field alone with 4,750 telephones installed. It operates in Pomona, Claremont, Chino, Lordsburg and San Dimas. During the period in question applicant has continued to pay dividends, although during the last three years the rate has been 6 per cent per annum instead of 7 per cent and 8 per cent previously paid.

Applicant plans to use the $26,425.88 shown in the above table for cables, conduits and other improvements chargeable to capital account. The principal expenditure contemplated is for a fireproof building to house its switchboard, which it values at $25,000.00, and considers the most efficient and advanced type, with its office and equipment. It has purchased a lot for the purpose and proposes to construct thereon a concrete building, the total investment being estimated at about $20,000.00.

FIRST SUPPLEMENTAL ORDER.

Pomona Valley Telephone and Telegraph Union having applied to the Railroad Commission for authority to use the proceeds of the sale of its 6 per cent bonds otherwise than provided in the order in Decision No. 494, referred to in the opinion, and a public hearing having been held thereon and it appearing to the Commission that the purposes for which applicant now desires to use the said proceeds of said bonds are not reasonably chargeable to operating expenses or to income,

It is hereby ordered that Pomona Valley Telephone and Telegraph Union be and it is hereby authorized and empowered to apply the

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$57,000.00 proceeds of the sale of the $60,000.00 face value of its 6 per cent bonds sold by it at 95 per cent of their face value, as follows:

To retire outstanding bonds of the issue of 1914	$2,000 00
To retire coupon notes	5,000 00
For extensions and improvements in system	26,425 88
To pay 7 per cent notes described below	23,574 12
	$57,000 00

	Date due	Amount
Alice R. Hodge	January 19, 1915	$2,000 00
Emma A. Heath	October 15, 1914	3,000 00
R. W. Murphy	March 22, 1915	1,000 00
Simpson Henderson	October 1, 1916	2,500 00
Kellogg Company	July 22, 1916	1,974 12
J. A. Dole	December 31, 1916	9,000 00
Mrs. Laura Powelson	December 31, 1916	2,000 00
Mrs. Laura Powelson	May 4, 1916	1,400 00
Mrs. Laura Powelson	July 3, 1916	700 00
		$23,574 12

The authority hereby granted for the payment of bonds and notes shall extend only to such bonds and notes as shall have been paid on or before July 1, 1916.

Applicant shall report to the Railroad Commission in writing on or before the twenty-fifth day of each month the application of said proceeds, all in accordance with this Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this 10th day of May, 1916.

Decision No. 3320.

IN THE MATTER OF THE APPLICATION OF SAN JOSE WATER COMPANY AND SAN JOSE WATER WORKS, FOR AN ORDER AUTHORIZING THE TRANSFER OF PROPERTY AND THE ISSUE OF COMMON STOCK AND NOTES PAYABLE.

Application No. 2176.

Decided May 10, 1916.

The above entitled application comprehends, (1) transfer of properties of San Jose Water Company to San Jose Water Works; (2) San Jose Water Works to issue $1,500,000.00 par value of common stock and a note of the face value of $25,000.00, the stock and $25,000.00 cash, proceeds of the note, to be delivered to the San Jose Water Company in exchange for its properties, and in addition the San Jose Water Works to assume all present note indebtedness of the company taken over.

Original franchises held by San Jose Water Company in the city of San Jose have expired, it now claims a perpetual franchise in the cities of San Jose and Los Gatos under constitutional provisions, effective prior to October 10, 1911, and a franchise from the supervisors of Santa Clara County unlimited as to time. *Held*, that the life of a franchise does not expire with the corporate life of the utility holding same, but may be transferred, subject to the approval of this Commission, and considered a perpetual right by the company to whom transferred. That these franchises, when issued, should have been so conditioned that no value, other than the actual cost, could be claimed therefor, for rate fixing or other purposes; accordingly it is incumbent that this Commission, in authorizing this transfer, should so condition them.

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Application granted, such transfer not to become effective until San Jose Water Works shall have filed a stipulation to the effect that it shall not claim a value for the franchises herein authorized to be transferred, in excess of the actual cost thereof, and also a stipulation agreeing to assume all obligations at present resting against the company to be transferred.

Leib & Leib, for San Jose Water Company and San Jose Water Works.

Earl Lamb, city attorney, for City of San Jose.

F. H. Bloomingdale, for Mary E. Woodhouse, stockholder of San Jose Water Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application on the part of San Jose Water Company for authority to convey its property, except its franchise to be a corporation, to San Jose Water Works, and of San Jose Water Works to issue capital stock and promissory notes in payment for said property, and for the purpose of paying existing obligations of San Jose Water Company.

The petition alleges, in effect, that both petitioners are California corporations; that on December 31, 1915, San Jose Water Company had outstanding promissory notes of the face value of $195,000.00, which notes are all set forth; that the sum of $35,000.00 secured from promissory notes having terms less than one year and issued by San Jose Water Company during the year 1915, was entirely expended by San Jose Water Company for permanent structures and real estate; that San Jose Water Works has issued seven shares of its capital stock, one share to each director; that the boards of directors of San Jose Water Company and San Jose Water Works have passed resolutions authorizing the sale of the property of San Jose Water Company to San Jose Water Works, and the purchase of said property by San Jose Water Works on the terms and conditions set forth in said resolutions; that in Decision No. 1534, rendered on May 22, 1914, in Case No. 476, *Monahan* vs. *San Jose Water Company* (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 1101), the Railroad Commission found that the fair value of the property of San Jose Water Company, used and useful in its service to the public, exclusive of money on hand and accounts receivable, as of December 31, 1913, was $1,639,517.00; that during 1914 and 1915 permanent structures of the value of $25,064.76, included in the Railroad Commission's valuation, were removed, and that during the same period San Jose Water Company acquired permanent structures of the actual cost of $130,767.93, and real estate of the actual cost of $15,339.07, which permanent structures and real estate thus acquired are used and useful in the public utility business of San Jose Water Company; that on December 31, 1915, San Jose Water Company had assets and liabilities of $1,800,804.77, and net assets, after deducting notes payable, accounts

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payable, the reserve for depreciation, service billed in advance, a special casualty insurance fund and unamortized appraisement expense, of $1,530,528.36; and that the reason for entering into the proposed sale of the property of San Jose Water Company is that the corporate life of San Jose Water Company will expire on November 16, 1916. Petitioners ask that the Railroad Commission make its order authorizing the contemplated sale of the property of San Jose Water Company to San Jose Water Works; the issue by San Jose Water Works to San Jose Water Company, as part of the purchase price, of 15,000 shares of the fully-paid capital stock of San Jose Water Works of the par value of $100.00 per share; the issue by San Jose Water Works of its promissory note of the face value of $25,000.00, to bear interest at not to exceed 6 per cent per annum, for the purpose of securing $25,000.00 in cash, to be paid by San Jose Water Works to San Jose Water Company as part payment for the property of San Jose Water Company; the assumption by San Jose Water Works of all the liabilities and obligations of San Jose Water Company, as part of the purchase price for the property of San Jose Water Company; the issue by San Jose Water Works, from time to time, of promissory notes for the purpose of refunding the promissory notes of San Jose Water Company now outstanding; and the issue by San Jose Water Works of its common capital stock at not less than par for the purpose of paying the promissory notes of San Jose Water Company to be assumed by San Jose Water Works, and also the promissory note for $25,000.00 to be issued by San Jose Water Works and hereinbefore referred to.

A public hearing in this proceeding was held in San Jose on April 26, 1916.

For a description of the property and operations of San Jose Water Company, reference is hereby made to this Commission's Decision No. 1534, rendered on May 24, 1914, in Case No. 476, *Monahan* vs. *San Jose Water Company, supra.*

San Jose Water Company was incorporated under the laws of California on November 21, 1866, for a term of fifty years. The company has an authorized issue of common capital stock of the total par value of $1,250,000.00, divided into 12,500 shares of the par value of $100.00 each. This stock is all issued. The company has no bonds outstanding against its property. The company reports that on March 31, 1916, it had accounts receivable of $13,945.30 and bills receivable of $5,040.00, and that on the same day it had accounts payable of $106.75, casualty insurance reserve of $4,804.67, notes payable of $210,000.00, a reserve for depreciation of $66,696.30, service billed in advance of $144.33, taxes accrued of $3,705.00, and tool expense of $18.18. The testimony herein shows that the reserve for depreciation has been reinvested in the property.

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The following table is a condensed statement of the San Jose Water Company's revenues and expenses, as reported to this Commission for the years ending December 31, 1912, 1913, 1914 and 1915, with an analysis of the corporate surplus account:

TABLE No. I.

Revenues and Expenses—San Jose Water Company—years ending December 31, 1912–13–14–15, with Analysis of Corporate Surplus Account.

	1912	1913	1914	1915
Operating revenues	$186,018 17	$204,548 09	$211,781 32	$216,774 29
Operating expenses	103,858 12	130,322 56	123,134 52	122,847 06
Net operating revenue	$82,160 05	$74,225 53	$88,646 80	$93,927 23
Nonoperating revenue—rents	$815 00	$981 51	$1,005 15	$916 14
Total nonoperating revenues	$815 00	$981 51	$1,005 15	$916 14
Gross corporate income	$82,975 05	$75,207 04	$89,651 95	$94,843 37
Deductions—				
Uncollectible bills		$742 30	$718 06	$621 24
Nonoperating taxes		94 76		
Other interest	$445 85	4,120 28	8,640 95	10,580 60
Total deductions	$445 85	$4,957 34	$9,359 01	$11,201 84
Corporate surplus	$82,529 20	$70,249 70	$80,292 94	$82,725 39

Corporate Surplus Account—Year ending December 31, 1915.

Balance December 31, 1914	$80,505 86	
Profit for year	83,641 53	
Total additions		$164,147 39
Deductions for year—		
1. Dividends on outstanding stock	$75,000 00	
2. Miscellaneous deductions from surplus	2,149 00	
Total deductions		77,149 00
Balance December 31, 1915—Corporate surplus		$86,998 39

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The following table shows the assets and liabilities of San Jose Water Company on March 31, 1916, as reported to this Commission:

TABLE No. II.

Assets and Liabilities—San Jose Water Company—March 31, 1916.

	Assets	Liabilities
Accounts receivable	$13,945 30	
Accounts payable		$106 75
Appreciation of fixed capital		198,929 97
Bills receivable	5,010 00	
Construction (prior to 1914)	1,231,014 65	
Construction (for 1914)	62,389 02	
Construction (for 1915)	68,378 91	
Construction meters	4,046 54	
Construction pipe	6,476 79	
Construction services	744 41	
Construction, general	6,591 88	
Capital stock		1,250,000 00
Corporate surplus		86,417 55
Collectors' fund	63 00	
Garden City Bank and Trust Company	4,804 67	
Insurance reserve		4,804 67
Material and supplies	19,735 77	
Notes payable (authorized by Commission)		160,000 00
Notes payable (authorized by Statute)		50,000 00
Office fixtures	5,854 86	
Prepaid insurance	571 95	
Reserve for depreciation		66,696 30
Real estate	255,943 32	
Service billed in advance		144 33
Shop (capital account)	2,569 31	
Stable and garage (capital account)	7,724 94	
Suspense	63 00	
Taxes accrued		3,705 00
Tool (capital account)	9 00	
Tool expense		18 18
Unamortized appraisement expense	4,950 00	
Unamortized reorganization expense	1,104 50	
Water rights	107,329 00	
Cash on hand	11,471 93	
	$1,820,822 75	$1,820,822 75

By subtracting from the total of $1,820,822.75 the items in the foregoing table for accounts payable, insurance reserve, notes payable, reserve for depreciation, service billed in advance, taxes accrued, tool expense and unamortized appraisement expense, San Jose Water Company reports net assets as of March 31, 1916, amounting to $1,530,397.52. Assistant engineer James Armstrong checked over this statement and testified that on the basis of the valuation reported by this Commission's engineering department in Case No. 476, with subsequent additions and subtractions, the report of the San Jose Water Company is correct.

San Jose Water Works was incorporated on February 17, 1916, with general public utility water powers, for a period of fifty years. The

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company has an authorized capital stock of $2,500,000.00, divided into 25,000 shares of the par value of $100.00 each. Seven shares of capital stock have been issued, one share to each director.

It is now proposed to have San Jose Water Company convey to San Jose Water Works the entire property, both operative and nonoperative, of San Jose Water Company, except its franchise to be a corporation, in exchange for the issue by San Jose Water Works of its common capital stock of the par value of $1,500,000.00, the payment by San Jose Water Works of $25,000.00 in cash and the assumption by San Jose Water Works of all the obligations and liabilities of San Jose Water Company. The testimony shows that practically all the property of San Jose Water Company, with the exception of two or three lots of land, is operative property.

San Jose Water Works also asks authority to issue certain promissory notes and certain capital stock as hereinbefore set forth, the capital stock to be issued at par to refund the promissory notes. This matter will be further referred to in the order herein.

The reason for this proposed transaction arises from the fact that the corporate life of San Jose Water Company will expire on November 21, 1916. As already indicated, San Jose Water Company was incorporated on November 21, 1866, for a term of fifty years. Section 7 of article XII of the constitution of California, reads in part as follows:

> "The legislature shall not extend any franchise or charter, nor remit the forfeiture of any franchise or charter of any quasi-public corporation now existing or which shall hereafter exist under the laws of this state."

This application is made in view of the approaching termination of the corporate life of San Jose Water Company and of the provisions of section 7 of article XII of the constitution of California, applicable to this situation.

The constitution and statutes of California show clearly an intention that at recurring periods the State should have the right to review and, if necessary, entirely revise the relationship between a public utility corporation and the public. Section 290 of the Civil Code of California provides in part that the term of a corporation's life shall not extend beyond fifty years. While provision has now been made in the constitution and the statutes of this State for an extension of the term of other corporations, these provisions have no applicability to public utility corporations. Reference has already been made to section 7 of article XII of the constitution of California providing in part that the legislature shall not extend any franchise or charter of any quasi-public corporation, nor remit the forfeiture of any franchise or charter of any such corporation. Hence, at least at the end of the fifty-year term of

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each public utility corporation's life, the State may entirely review the relationship between such corporation and the public.

Referring now particularly to the franchises of public utility corporations, it is true that section 19 of article XI of the constitution of California, as originally enacted, provided in effect that in any city where there are no public works owned and controlled by the municipality for supplying the same with water or artificial light, any individual or California corporation might secure the right, without limit as to time, of using the public streets and thoroughfares of the municipality for the supply of gaslight or other illuminating light, or with fresh water for domestic and all other purposes. As this section originally stood, any individual or California corporation desiring to supply a municipality which had no public works of its own of such character, with gaslight or other illuminating light, or with fresh water for domestic or other purposes, secured by direct grant from the State of California a franchise for such purposes without limit as to time. The Supreme Court of the United States held in *Russell* vs. *Sebastian*, 233 U. S. 195, that this franchise extended to all the streets of the municipality. However, on October 10, 1911, section 19 of article XI of the constitution of this State was amended so as to provide that persons or corporations may establish and operate works for supplying the inhabitants of municipal corporations with public utility services of the character therein specified, including water, "upon such conditions and under such regulations as the municipality may prescribe under its organic law, on condition that the municipal government shall have the right to regulate the charges thereof." Hence, any person or corporation desiring to supply a municipality with water or other public utility service of the character specified in the section, subsequent to October 10, 1911, must comply with "such conditions and such regulations as the municipality may prescribe under its organic law," which conditions and regulations may, if the municipality has been granted the power, include the acquisition from the municipality of a franchise with either limited or unlimited term. It thus appears that with reference to public utility franchises the state has now provided for the possibility of a limit of their term, so as to enable the public authorities, at designated intervals, to review the situation with reference to all franchises granted to public utilities subsequent to October 10, 1911.

The State has also provided a tribunal with power to supervise the transfer of all public utility properties, including franchises. Section 51 (*a*) of the Public Utilities Act provides as follows:

> "No railroad corporation, street railroad corporation, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation or water corporation shall henceforth sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or any part of its railroad, street railroad, line, plant or

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system, necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, direct or indirect, merge or consolidate its railroad, street railroad, line, plant or system, or franchises or permits, or any part thereof, with any other public utility, without having first secured from the Commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the Commission authorizing the same shall be void. The permission and approval of the Commission to the exercise of a franchise or permit under section 50 of this act, or the sale, lease, assignment, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Nothing in this subsection contained shall be construed to prevent the sale, lease, or other disposition by any public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value."

The State has thus provided that no public utility franchises, whether granted to a corporation, a partnership or an individual, can be transferred or assigned unless the consent of the Railroad Commission has first been secured. The obvious purpose of this section is to enable the Railroad Commission, before any transfer of public utility property is consummated, to review the situation and to take such action, as a condition to the transfer, as the public interest may require.

One of the most important questions, if not the most important of all, to be considered by the state at the termination of the life of a public utility corporation, is the disposition of its franchises.

On February 17, 1865, the city of San Jose granted to Donald McKenzie and his assigns the right to use the public streets of San Jose for the supply to its inhabitants of good and pure water for the term of twenty-five years. The rights secured under this ordinance were later assigned by McKenzie to San Jose Water Company. The rights granted by this ordinance have expired by time limitation.

San Jose Water Company now claims the ownership of the following franchises:

1. A perpetual franchise in the city of San Jose under the provisions of section 19 of article XI of the constitution of California as it existed prior to its amendment on October 10, 1911.

2. A similar perpetual franchise in the city of Los Gatos.

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3. The right to lay down and maintain water pipes along the public highways and roads of the county of Santa Clara, granted by an order of the board of supervisors of Santa Clara County to San Jose Water Company on August 22, 1868. This order contains no limit as to time.

The question whether a franchise granted to a public utility corporation which has a limited life can extend beyond the life of the grantee was considered by the Supreme Court of the United States in *Detroit* vs. *Detroit Citizens Street Railway Company,* 184 U. S. 368. In this case, at page 394, Mr. Justice Peckham holds that the limitation of the life of a corporation does not prevent the corporation from taking franchises or other property, the title to which would not expire with the corporation itself. Mr. Justice Peckham points out that a corporation whose corporate existence is limited to a term of years has always been able to purchase the fee in property which it needed for the operation of its business, and that if at the end of its term its life were not extended, the property which it owned at the expiration of its life was an asset payable to the shareholders after the payment of its debts. Mr. Justice Peckham then refers with approval to *People* vs. *O'Brien,* 111 N. Y. 1, as establishing the following doctrine:

> "Where the grant to a corporation of the franchise to construct and operate its roads in the streets of a city, is not, by its terms, limited and revocable, the grant is in fee, vesting the grantee with an interest in the street in perpetuity to the extent necessary for the street railroad, the rights granted to be exercised by the corporation or whomsoever may lawfully succeed to such rights. In that case the authorities show that a franchise of the above nature is invested with the character of property and is transferable as such, independently of the life of the original corporation."

Mr. Justice Peckham concludes his discussion on this subject as follows:

> "The decisions have all been one way, in favor of the right of a corporation, limited as to the time of its corporate existence, to purchase or acquire by agreement or condemnation property for its use, the title to which it might own in fee."

Under the decision of the Supreme Court of the United States in the Detroit case, *supra,* it clearly appears that a corporation may acquire a franchise, the terms of which extends beyond the corporation's life; that when no term is expressly provided in the franchise, the term of the franchise is not to be considered as limited by the corporation's life, but is to be regarded rather as a perpetual right; and that a perpetual franchise to lay tracks or pipes in a street is a property right which, like the other property held by the corporation in fee, may pass on to a successor at the end of the corporation's life. Hence we find the San Jose Water Company, the owner of three franchises without express

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limit as to time, two directly from the state under the provisions of section 19 of article XI of the constitution, and one from the board of supervisors, of Santa Clara County. If the framers of the Constitution of 1879 had had the wider experience with public utility franchises which the people of this State have now acquired, I am satisfied that they would have provided with reference to all public utility franchises at least two conditions: (1) that the public should at all times have the right to take over the franchise and the property constructed and operated thereunder at a fair value, to be established by some impartial tribunal; and (2) that no value should ever be claimed for any franchise by the grantee of the franchise or any successor or assign, in excess of the amount, if any, originally paid by the grantee at the time of the grant to the public authority from whom the franchise was secured. The first condition has now, in effect, been written into the law of California by the enactment of section 47 of the Public Utilities Act, providing that whenever a municipality or other public corporation desires to acquire the property or any portion thereof of a public utility, it may file a petition with the Railroad Commission, which Commission is then authorized to fix and determine the fair compensation to be paid, which compensation is conclusive in eminent domain proceedings.

Referring now to the second condition herein suggested, the Public Utilities Act provides, in section 52, that the Railroad Commission shall have no power to authorize the capitalization of a public utility franchise in excess of the amount originally paid therefor. In so far as rate proceedings are concerned, this Commission in its Decision No. 3242, rendered on April 6, 1916, in the Mount Whitney Power and Electric cases, has decided that no value can be allowed in rate cases for franchises in excess of the amount, if any, originally paid for them. What will be the decision of the courts of last resort with reference to franchise values in condemnation cases is not as yet definitely determined.

San Jose Water Company is approaching the end of its life. The company is petitioning the State to be authorized to continue to own and operate its property through the instrumentality of a new corporation for the term of another fifty years. The State may either grant or deny the application. It seems only fair that under these circumstances the State, if it grants the application, should require that the new corporation agree that it will never in any character of proceeding before any court, commission or other public authority, claim any value for its franchises where, as is the case here, nothing was originally paid for them by San Jose Water Company. The framers of the Constitution of 1879, apparently uncertain as to what conditions the progress of time might show to be wise with reference to public utility franchises, solved the problem by granting franchises by section 19 of article XI of

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the constitution, but at the same time provided that the legislature should not extend the term of a public utility corporation's life. Thus the framers of the Constitution of 1879 preserved to the State's representatives, at stated periods in the future, the power to review the relationship between each public utility corporation and the public and to impose such conditions on the transfer of a public utility corporation's property and franchises, as the accumulated experience of the years to come might show to be wise and necessary for the protection of the public.

In the present proceeding, San Jose Water Company and San Jose Water Works apparently realize the justice of the position herein taken. The testimony shows that San Jose Water Company has never capitalized its franchises, and that in determining the compensation to be paid by San Jose Water Works for the property of San Jose Water Company no value was assigned to the franchises of San Jose Water Company.

San Jose Water Company has rendered efficient service at reasonable rates to the territory served by it. Provided that the stipulation referred to in the order herein with reference to franchises is executed by San Jose Water Works, I see no reason why the State should not permit the new corporation to take over the property of the existing corporation and to continue the efficient service which has been rendered by San Jose Water Company during the last fifty years.

The petitioners herein testified that the transfer of the property would not be used as the basis of a request for an increase in rates, and that it is not the intention of San Jose Water Works to apply for any such increase.

I submit the following form of order:

ORDER.

San Jose Water Company and San Jose Water Works having applied to the Railroad Commission for an order authorizing San Jose Water Company to convey its property, except the right to be a corporation, to San Jose Water Works, for the consideration specified in the opinion which precedes this order, and for an order authorizing San Jose Water Works to issue 15,000 shares of its capital stock, at par, in part payment for said property, to assume the obligations and liabilities of San Jose Water Company and to issue the promissory notes and the additional capital stock hereinafter referred to, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which the proceeds of the capital stock and notes to be issued by San Jose Water Works will be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. San Jose Water Company is hereby authorized to convey to San Jose Water Works the entire property of San Jose Water Company,

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except its right to be a corporation, in consideration for the issue by San Jose Water Works to San Jose Water Company of the capital stock of San Jose Water Works of the par value of $1,500,000.00, the payment by San Jose Water Works to San Jose Water Company of the sum of $25,000.00 in cash and the assumption by San Jose Water Works of all the obligations and liabilities of San Jose Water Company. The property to be thus conveyed by San Jose Water Company is described in Exhibit "A" which is attached to this order and made a part hereof.

2. San Jose Water Works is hereby authorized to issue to San Jose Water Company 15,000 shares of its capital stock of the par value of $100.00 per share, and to assume all the liabilities and obligations of San Jose Water Company, in part payment for the property to be conveyed, as aforesaid, by San Jose Water Company to San Jose Water Works.

3. San Jose Water Works is hereby authorized to execute its promissory note in the sum of $25,000.00, at an interest rate not to exceed 6 per cent per annum, in accordance with the terms of a supplemental order which will be issued herein when San Jose Water Works has reported the name of the payee and the term of the proposed note.

4. San Jose Water Works is hereby authorized to issue its promissory notes, from time to time, at rates of interest not to exceed the rates of interest specified in the existing promissory notes, for the purpose of refunding the promissory notes of San Jose Water Company at present issued in the sum of $210,000.00, provided that San Jose Water Works shall have filed a statement of the notes which it desires to refund, and of the terms and conditions of the notes which it desires to issue, and shall have secured from the Railroad Commission a supplemental order herein, authorizing the issue of such promissory notes.

5. San Jose Water Works is hereby authorized to sell its capital stock, at par, in amounts sufficient to refund such promissory notes as San Jose Water Works may issue for the purpose of refunding the existing notes of San Jose Water Company and the note for $25,000.00 hereinbefore referred to, provided, that San Jose Water Works shall first have secured from the Railroad Commission a supplemental order specifying the terms and conditions of such issue.

The foregoing authorizations are granted upon the following conditions, and not otherwise, to wit:

(*a*) The authority herein given to San Jose Water Company to convey its property to San Jose Water Works shall not become effective until San Jose Water Works shall have filed with the Railroad Commission a stipulation, authorized by its board of directors, agreeing that San Jose Water Works, its successors and assigns, will never claim before the Railroad Commission or any other public authority, in any proceeding, any value for the franchises referred to in the opinion herein

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and to be conveyed by San Jose Water Company to San Jose Water Works, and shall have secured from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

(*b*) The authority herein given to San Jose Water Company to convey its property to San Jose Water Works shall not become effective until San Jose Water Works shall have filed with the Railroad Commission a stipulation, authorized by its board of directors, agreeing that San Jose Water Works, on the conveyance to it of the property of San Jose Water Company, shall assume all the liabilities and obligations of San Jose Water Company, and shall have secured from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

(*c*) San Jose Water Works shall, within thirty days after the issue of the 15,000 shares of its capital stock herein authorized to be issued, make a verified report to the Railroad Commission, stating the disposition of such capital stock, in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(*d*) Within thirty days from the execution of the deed of conveyance from San Jose Water Company to San Jose Water Works, San Jose Water Works shall file with the Railroad Commission a certified copy thereof.

(*e*) The authorization herein given to San Jose Water Company to convey its property to San Jose Water Works, and the authorization given to San Jose Water Works to issue 15,000 shares of its capital stock in partial payment therefor, shall apply only to such conveyance and to such issue as shall have been made on or before July 1, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of May, 1916.

"EXHIBIT A."

All the property belonging to the San Jose Water Company of whatsoever kind, nature or description, real, personal and mixed, and all said company's rights, privileges and easements of every kind and nature, both in or to or concerning real and personal property of every kind, nature and description, and also all said company's rights of every kind whatever, except its right to be a corporation, and except its right to distribute to its stockholders the stock and cash received, or to be received, by it as the purchase price of the property hereby conveyed and transferred.

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Said property so conveyed includes all the water plant and water system and all other property and rights of every kind and nature of said San Jose Water Company, or belonging to or possessed or used by it, save and except the purchase price paid, or to be paid, to it for the property to be conveyed.

The lands conveyed are shortly described as being the following lots or tracts of land as designated upon the following maps, recorded in the following books of maps in the office of the county recorder of the county of Santa Clara, State of California, at the pages as hereinafter specified, which lands are situate in the said county of Santa Clara, State of California, viz:

1st. Lot 1A, recorded in Book "F2" of Maps, page 49.
2d. Lot 1B, recorded in Book "F2" of Maps, page 47A.
3d. Lot 1C, recorded in Book "F2" of Maps, page 47A.
4th. Lot 2A, recorded in Book "F2" of Maps, page 50.
5th. Lot 2B, recorded in Book "F2" of Maps, page 50.
6th. Lot 3A, recorded in Book "F2" of Maps, page 50.
7th. Lot 3B, recorded in Book "F2"of Maps, page 50.
8th. Lot 4, recorded in Book "F2" of Maps, page 50.
9th. Lot 5, recorded in Book "F2" of Maps, page 50.
10th. Lot 6, recorded in Book "F2" of Maps, page 50.
11th. Lot 7, recorded in Book "N" of Maps, page 36.
12th. Lot 8, recorded in Book "N" of Maps, page 37.
13th. Lot 9, recorded in Book "N" of Maps, page 37.
14th. Lot 10, recorded in Book "N" of Maps, page 38.
15th. Lot 11, recorded in Book "N" of Maps, page 38.
16th. Lot 12, recorded in Book "O" of Maps, page 31.
17th. Lot 13, recorded in Book "O" of Maps, page 31.
18th. Lot 14, recorded in Book "O" of Maps, page 31.
19th. Lot 15, recorded in Book "N" of Maps, page 38.
20th. Lot 16, recorded in Book "N" of Maps, page 46.
21st. Lot 17, recorded in book "N" of Maps, page 42.
22d. Lot 18, recorded in Book "N" of Maps, page 43.
23d. Lot 19, recorded in Book "N" of Maps, page 43.
24th. Lot 20, recorded in Book "N" of Maps, page 43.
25th. Lot 21, recorded in Book "N" of Maps, page 43.
26th, Lot 22, recorded in Book "N" of Maps, page 42.
27th. Lot 23, recorded in Book "N" of Maps, page 44.
28th. Lot 24, recorded in Book "N" of Maps, page 36.
29th. Lot 25, recorded in Book "N" of Maps, page 44.
30th. Lot 26, recorded in Book "N" of Maps, page 44.
31st. Lot 28, recorded in Book "N" of Maps, page 45.
32d. Lot 29A, recorded in Book "F2" of Maps, page 50.
33d. Lot 29B, recorded in Book "F2" of Maps, page 50.
34th. Lot 30, recorded in Book "N" of Maps, page 44.
35th. Lot 31, recorded in Book "O" of Maps, page 32.
36th. Lot 32, recorded in Book "O" of Maps, page 32.
37th. Lot 33, recorded in Book "O" of Maps, page 32.
38th. Lot 34, recorded in Book "N" of Maps, page 46.
39th. Lot 35, recorded in Book "N" of Maps, page 46.
40th. Lot. 36, recorded in Book "N" of Maps, page 46.
41st. Lot 37, recorded in Book "O" of Maps, page 32.
42d. Lot 39, recorded in Book "N" of Maps, page 43.
43d. Lot 40, recorded in Book "N" of Maps, page 37.

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44th. Lot 41, recorded in Book "N" of Maps, page 36.
45th. Lot 42A, recorded in Book "F2" of Maps, page 47A.
46th. Lot 42B, recorded in Book "F2" of Maps, page 47A.
47th. Lot 43, recorded in Book "N" of Maps, page 37.
48th. Lot 44, recorded in Book "N" of Maps, page 37.
49th. Lot 45A, recorded in Book "F2" of Maps, page 50A.
50th. Lot 45B, recorded in Book "F2, of Maps, page 50A.
51st. Lot 46, recorded in Book "F2" of Maps, page 49.
52d. Lot 47, recorded in Book "N" of Maps, page 36.
53d. Lot 48, recorded in Book "N" of Maps, page 36.
54th. Lot 49, recorded in Book "O" of Maps, page 31.
55th. Lot 50, recorded in Book "N" of Maps, page 42.
56th. Lot 51, recorded in Book "N" of Maps, page 36.
57th. Lot 53, recorded in Book "N" of Maps, page 45.
58th. Lot 54, recorded in Book "N" of Maps, page 41.
59th. Lot 56, recorded in Book "N" of Maps, page 41.
60th. Lot 57, recorded in Book "N" of Maps, page 42.
61st. Lot 58, recorded in Book "N" of Maps, page 42.
62d. Lot 59A, recorded in Book "F2" of Maps, page 49.
63d. Lot 59B, recorded in Book "F2" of Maps, page 49.
64th. Lot 60A, recorded in Book "F2" of Maps, page 50A.
65th. Lot 60B, recorded in Book "F2" of Maps, page 50A.
66th. Lot 60C, recorded in Book "F2" of Maps, page 50A.
67th. Lot 61, recorded in Book "O" of Maps, page 31.
68th. Lot 62, recorded in Book "N" of Maps, page 45.
69th. Lot 63, recorded in Book "N" of Maps, page 36.
70th. Lot 64, recorded in Book "N" of Maps, page 36.
71st. Lot 65, recorded in Book "N" of Maps, page 36.
72d. Lot 66, recorded in Book "N" of Maps, page 45.
73d. Lot 67, recorded in Book "F2" of Maps, page 48A.
74th. Lot 68, recorded in Book "N" of Maps, page 46.
75th. Lot 69A, recorded in Book "N" of Maps, page 99.
76th. Lot 69B, recorded in Book "N" of Maps, page 99.
77th. Lot 70A, recorded in Book "N" of Maps, page 98.
78th. Lot 70B, recorded in Book "N" of Maps, page 98.
79th. Lot 71, recorded in Book "O" of Maps, page 31.
80th. Lot 72, recorded in Book "N" of Maps, page 98.
81st. Lot 73, recorded in Book "N" of Maps, page 98.
82d. Lot 74, recorded in Book "O" of Maps, page 31.
83d. Lot 75, recorded in Book "N" of Maps, page 100.
84th. Lot 76, recorded in Book "N" of Maps, page 100.
85th. Lot 77, recorded in Book "F2" of Maps, page 46A.
86th. Lot 78, recorded in Book "F2" of Maps, page 46A.
87th. Lot 79, recorded in Book "F2" of Maps, page 46A.
88th. Lot 80, recorded in Book "F2" of Maps, page 46A.
89th. Lot 81, recorded in Book "F2" of Maps, page 49A.
90th. Lot 82, recorded in Book "F2" of Maps, page 49A.
91st. Lot 83, recorded in Book "F2" of Maps, page 48A.
92d. Lot 84, recorded in Book "O" of Maps, page 91.
93d. Lot 85, recorded in Book "O" of Maps, page 91.
94th. Lot 86, recorded in Book "O" of Maps, page 91.
95th. Lot 88, recorded in Book "O" of Maps, page 91.

Said lots or tracts of land are more particularly described on said recorded maps, whereon they are designated as aforesaid, to which recorded maps reference is hereby made for more particular description.

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The property to be conveyed also includes any and every lot or tract of land not above particularly described, which said San Jose Water Company owns or in which it has any right, title or interest, if any such tract of land there be.

DECISION No. 3321.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AUTHORITY TO INCREASE ITS CAPITAL STOCK AND TO ISSUE FIVE HUNDRED THOUSAND DOLLARS PAR VALUE OF PREFERRED STOCK.

Application No. 2097.

Decided May 12, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 3280, dated April 24, 1916, authorized applicant herein to issue $144,000.00 par value of 7 per cent preferred stock at not less than the par value thereof; and

Whereas the order in said Decision No. 3280 provides that the proceeds from the sale of the stock shall be used to pay notes in the sum of $30,000.00, and to reimburse the treasury of applicant for moneys expended to pay for the cost of extensions, additions and betterments in the sum of $114,000.00, provided that the said $114,000.00 shall be used only to pay for proper capital expenditures hereafter authorized by this Commission by a supplemental order; and

Whereas applicant has now filed a supplemental application asking authority to use the aforesaid $114,000.00 to pay off the obligations set forth in Schedule No. 1, attached to the supplemental application, it being alleged that all of said obligations represent capital expenditures; and

Whereas applicant further requests that said Decision No. 3280, dated April 24, 1916, be amended so that the same shall permit the preferred stock, the issue of which is authorized by said Decision No. 3280, dated April 24, 1916, to be callable, subject to the approval of the Railroad Commission, at 115 per cent of its par value; and good cause appearing,

It is hereby ordered that San Diego Consolidated Gas and Electric Company be given authority and it is hereby given authority to use $114,000.00 obtained from the sale of 7 per cent preferred stock, the

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issue of which was authorized by Decision No. 3280, dated April 24, 1916, to pay the following indebtedness:

Standard Gas and Electric Company, cash advanced on open account		$99,711 48
H. M. Byllesby & Company, open account, engineering fee for February, 1916		2,873 34
Accounts Payable:		
Standard Underground Cable Company	$8,312 59	
General Electric Company	3,102 59	
		11,415 18
Grand total		$114,000 00

It is hereby further ordered that San Diego Consolidated Gas and Electric Company shall not redeem the 7 per cent preferred stock, the issue of which was authorized by Decision No. 3280, dated April 24, 1916, without the approval of the Railroad Commission of the State of California.

It is hereby further ordered that Decision No. 3280, dated April 24, 1916, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this 12th day of May, 1916.

Decisions Nos. 3322 and 3323, grade crossings; not printed. See end of volume.

DECISION NO. 3324.

MRS. JOHN M. CORANSKI

vs.

THE BALDWIN PARK DOMESTIC WATER COMPANY, S. M. WALKER, PROPRIETOR.

Case No. 898.

Decided May 12, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled matter having filed a written request that the complaint herein be dismissed, now therefore,

It is hereby ordered that the above entitled action be and the same is hereby dismissed.

Dated at San Francisco, California, this 12th day of May, 1916.

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Decosion No. 3325, grade crossing; not printed. See end of volume.

DECISION No. 3326.

IN THE MATTER OF THE APPLICATION OF THE EAST SIDE CANAL AND IRRIGATION COMPANY FOR AN ORDER DIRECTING THE CONSUMER TO SPECIFICALLY DESIGNATE THE PARTICULAR PORTION OF A HOLDING OF LAND ON WHICH HE DOES NOT PAY THE WATER BILL.

Application No. 2240.

Decided May 12, 1916.

REPORT OF THE COMMISSION.

In this application East Side Canal and Irrigation Company asks for an order of the Commission directing its consumers to designate by metes and bounds that portion of the tracts which they own, or are in charge of, and which they desire to have irrigated; and that if any portion of the tract not included within such designation is irrigated, that a charge of $1.50 per acre per annum may be imposed upon the consumer for all such additional irrigation.

We do not believe there is any merit in this application. When a consumer first files his application for water he, of course, designates the acreage and the particular tract in which the irrigation is to be made. The company may at any time investigate to see whether acreage in addition to that applied for is being irrigated. If additional acreage is being irrigated of course the consumer properly may be required to pay therefor at the rates fixed by the Commission. The Commission can not allow any such charge as $1.50 per annum per acre therefor, however, but only the rates already provided by the Commission.

ORDER.

The Commission having given careful consideration to this application, and finding that there is no merit therein,

It is hereby ordered that this application be and the same is hereby dismissed.

Dated at San Francisco, California, this 12th day of May, 1916.

DECISION No. 3327.

IN THE MATTER OF THE APPLICATION OF MODESTO AND EMPIRE TRACTION COMPANY FOR AN ORDER AUTHORIZING CERTAIN INCREASES IN ITS ONE-WAY, ROUND-TRIP AND COMMUTATION PASSENGER FARES.

Application No. 2136.

Decided May 12, 1916.

Applicant applies for permission to put into effect general increases in its passenger rates, and upon a showing that it is not at present paying actual operating

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expenses, increases granted: One-way fares to be based on straight 3 cents per mile basis; thirty-ride commutations to be based on twenty times one-way fare; fifty-two ride commutations to be based on 1¼ cents per mile actual mileage; minimum, $1.50.

L. L. Dennett, for Modesto and Empire Traction Company, Applicant.

REPORT OF THE COMMISSION.

Applicant in this proceeding, the Modesto and Empire Traction Company, is a common carrier under the Public Utilities Act and was organized October 7, 1911, under the laws of the State of California. It operates between Modesto and Empire, a distance of 5.2 miles.

Applicant alleges that it does not derive sufficient revenue from its passenger fares to cover operating expenses. The situation is the same as set forth in Application No. 1775, Decision No. 2874, decided November 5, 1915, wherein this same applicant was given authority to increase its freight rates between these same points.

The following tables show the present fares and the fares which applicant seeks to establish.

Present One-way Fares.

Miles from Modesto	Between Modesto and—	Modesto	Modesto Colony	Conejo	Palo Verde	Riverside Park	Hunsuckers
0.0	Modesto						
1.2	Modesto Colony	5					
1.8	Conejo	5	5				
2.2	Palo Verde	5	5	5			
2.7	Riverside Park	5	5	5	5		
3.6	Hunsuckers	10	5	5	5	5	
4.2	Laurel Lodge	15	5	5	5	5	5
4.7	Frazine	15	10	5	5	5	5
5.2	Empire	15	10	10	5	5	5

Proposed One-way Fares.

Miles from Modesto	Between Modesto and—	Modesto	Modesto Colony	Conejo	Palo Verde	Riverside Park	Hunsuckers
0.0	Modesto						
1.2	Modesto Colony	5					
1.8	Conejo	5	5				
2.2	Palo Verde	10	5	5			
2.7	Riverside Park	10	10	5	5		
3.6	Hunsuckers	15	10	10	5	5	
4.2	Laurel Lodge	15	15	10	10	5	5
4.7	Frazine	20	15	15	10	10	5
5.2	Empire	20	20	15	15	10	10

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Present Round-trip and Commutation Fares.

Between Modesto and	Daily round-trip	Sunday round-trip	20-ride individual	30-ride family	52-ride, 18 years and under
Modesto Colony	$ 10				$1 30
Conejo	10				1 30
Palo Verde	10			1 50	1 30
Riverside Park	10			1 50	1 30
Hunsuckers	20	15	1 70	2 30	1 30
Laurel Lodge	25	15	1 70	2 30	1 30
Frazine	25	15	1 70	2 30	1 30
Empire	25	15	1 70	2 30	1 30

Proposed Round-trip and Commutation Fares.

Between Modesto and—	Daily round-trip	30-ride family	52-ride 18 years and under
Modesto Colony	$ 10		
Conejo	10		
Palo Verde	20	$2 25	$2 75
Riverside Park	20	2 25	2 75
Hunsuckers	30	3 35	3 25
Laurel Lodge	30	3 35	3 25
Frazine	40	4 50	3 50
Empire	40	4 50	3 50

No increase is proposed in fares between Laurel Lodge, Frazine and Empire.

It is proposed to cancel entirely the Sunday and daily round-trip fares, also the 20-ride individual commutation fare. The proposed daily round-trip fares shown above are double the one-way fare, and are shown only for comparison.

Limits.

It is also proposed to change the limit of 30-ride family ticket from ninety days to sixty days, and 52-ride individual from ninety days to forty-five days.

Proposed Basis for Round-trip Party Fares.

For parties of fifteen to forty-nine, inclusive, one full fare and one-third for the round trip.

For parties of fifty or over, one full fare for the round trip.

Party fares authorized above are limited to parties making the going trip on the same date and on the same train. Return trip may be made singly if made prior to expiration of return limit. The final return limit will be ten days from date of sale.

The following financial statement, taken from the annual reports of applicant on file with the Commission, shows that since October 24, 1911, the date on which applicant commenced operations, to and including June 30, 1915, there has been a net corporate loss of $19,564.48.

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Statement of Operating Revenues, Expenses and Income for Years Ending June 30, 1912, 1913, 1914 and 1915.

	*1912	1913	1914	1915	Total
Freight revenue	$1,899 56	$5,320 99	$5,949 09	$4,871 99	$18,041 63
Passenger revenue	3,262 20	5,091 93	5,310 20	4,200 83	17,865 16
Other revenue		180 08	286 51	348 45	815 04
Gross revenue	$5,161 76	$10,593 00	$11,545 80	$9,421 27	$36,721 83
Operating expenses	6,837 28	13,498 79	16,328 58	14,395 62	51,060 27
Total net operating deficit	†$1,675 52	†$2,905 79	†$4,782 78	†$4,974 35	†$14,338 44
Other income					
Gross corporate income	†$1,675 52	†$2,905 79	†$4,782 78	†$4,974 35	†$14,338 44
Deductions—					
Taxes			$1,068 14	$527 16	$1,595 30
Rents		$1,150 00	1,200 00	1,200 00	3,550 00
Miscellaneous		58 34	21 30	1 10	80 74
Total deductions		$1,208 34	$2,289 44	$1,728 26	$5,226 04
Net corporate income	†$1,675 52	†$4,114 13	†$7,072 22	†$6,702 61	†$19,564 48

*October 24, 1911, to June 30, 1912.
†Deficit.

The above financial statement shows clearly that sufficient revenue has not been received in the past to cover actual cost of operation, and, as noted in Decision No. 2874, to which reference is hereinbefore made, the increase authorized in the freight rates was not sufficient, based on tonnage handled during previous years, to cover the deficit in freight earnings. We believe under the existing circumstances, and considering the evidence submitted, that this application should be granted with some modifications.

All passenger fares, for the sake of uniformity, should be made on a recognized basis, and we recommend in this particular instance that the one-way fares be based on rate of three (3) cents per mile, using actual mileage and increasing the amount to the next 0 or 5.

That the thirty (30) ride family commutation fares be based on twenty (20) times the one-way fare, with a minimum of $2.00.

That the fifty-two (52) ride individual commutation fare for persons eighteen years of age and under be based on actual mileage at rate of one and one-fourth (1¼) cents per mile, with minimum of $1.50, fares to end with 0 or 5.

By applying the last named fares to the business actually handled for period of six (6) months ending December 31, 1915, there should be an approximate increase in passenger revenue of $1,500.00 per annum.

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We are, therefore, of the opinion that the application for an increase of fares should be granted in accordance with the terms of the following order:

ORDER.

Modesto and Empire Traction Company having filed an application with this Commission for an order authorizing increases in its passenger fares between all points on its line, and a hearing having been held and the Commission being fully apprised in the premises, and basing its order on the opinion which precedes this order,

It is hereby found as a fact that the rates and fares charged by applicant for the transportation of passengers between Modesto and Empire and between intervening points between Modesto and Empire are unjust and unreasonable for such service, and that the just and reasonable rates and fares for such service between such points are as hereinafter set forth,

It is hereby ordered that applicant be and it is hereby authorized to increase the fares charged between Modesto and Empire and intervening points as hereinafter set forth, and not otherwise:

The one-way fares to be made on basis of three (3) cents per mile (actual mileage), increasing the amount to next 0 or 5.

The thirty (30) ride family commutation fares to be based on twenty (20) times the one-way fare, with a minimum of two dollars ($2.00).

The fifty-two (52) ride individual commutation fares for persons eighteen years of age and under to be made on basis of one and one-fourth (1¼) cents per mile (actual mileage), with a minimum of one dollar and fifty cents ($1.50).

Dated at San Francisco, California, this 12th day of May, 1916.

DECISION No. 3328.

IN THE MATTER OF THE APPLICATION OF MODESTO INTERURBAN RAILWAY FOR ORDER AUTHORIZING IT TO ISSUE CERTAIN PROMISSORY NOTES, AND TO MORTGAGE CERTAIN TERMINAL PROPERTY IN THE CITY OF MODESTO.

Application No. 2132.

Decided May 12, 1916.

Applicant authorized to issue two promissory notes of the aggregate face value of $12,423.32, and to mortgage certain property in the city of Modesto to secure one of such notes, provided, that a certain designated amount of note to be issued to T. K. Beard shall not be permanently capitalized, but shall either be paid from earnings or assessments of stock.

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L. L. Dennett, for Applicant.

REPORT OF THE COMMISSION.

This is an application of Modesto Interurban Railway, a corporation, for authority to issue promissory notes as follows:

Payable	Payee	Principal sum	Interest
On or before 12 months.	Union Savings Bank of Modesto	$4,000 00	Not to exceed 8%
One year	T. K. Beard	8,423 32	Not to exceed 7%
Total		$12,423 32	

Applicant also desires to mortgage its terminal properties in the city of Modesto as security for the note in the sum of $4,000.00, payable to Union Savings Bank of Modesto.

Applicant is the owner of a line of railway extending from the city of Modesto to the town of Empire, Stanislaus County. At the present time its line is leased to Modesto and Empire Traction Company for an annual rental of $1,200.00. The company's balance sheet for June 30, 1915, as filed with the Commission, is as follows:

Resources.

First National Bank	$110 80	
Modesto and Empire Traction Company	1,689 02	
Right of way	11,450 78	
Terminal grounds	10,345 14	
Buildings	2,926 07	
Substation equipment	1,664 37	
Roadbed and track	12,805 50	
Rails	19,930 04	
Ties	9,226 48	
Bridges and culverts	19,851 85	
Crossings and signs	40 50	
Telephone line	79 20	
Track laying	429 34	
Grading	113 40	

Liabilities.

Capital stock		$72,650 00
Bills payable		5,200 00
T. K. Beard		12,974 05
L. L. Dennett		25 00
W. A. Cooper		178 30
Shell Company		329 01
Loss and gain	693 87	
	$91,356 36	$91,356 36

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Deficit June 30, 1914			$1,321 33
Income for year ending June 30, 1915:			
Road rental, 12 months at $100.00		$1,200 00	
Expense for year ending June 30, 1915:			
Miscellaneous	$4 00		
Taxes	231 99		
Interest	336 55		
		572 54	
			627 46
			$693 87

On March 8, 1912, Modesto Interurban Railway executed a demand note, payable to First National Bank of Modesto, in the total principal sum of $10,000.00, bearing interest at 8 per cent per annum. This note was secured by the personal endorsement of the directors of Modesto Interurban Railway, and was also secured by $5,000.00 face value of irrigation bonds belonging to T. K. Beard, president of Modesto Interurban Railway. The proceeds from this note were used by the railway company in acquiring rights of way and constructing terminal facilities. As interest accrued upon the note, it was paid by Mr. Beard, and when the First National Bank of Modesto finally demanded payment of the principal, the necessary moneys were advanced by Mr. Beard. The note was canceled on February 8, 1916.

Applicant now desires to issue a note to Union Savings Bank of Modesto in the sum of $4,000.00, and to use the proceeds in repaying a portion of the advances made by Mr. Beard. The balance of the advances it is proposed to repay by issuance of the railway company's promissory note directly to Mr. Beard. These advances have heretofore been held on the company's books as open accounts.

After consideration of the evidence submitted by applicant, we are of the opinion that this application is reasonable and should be granted, subject to the terms of the following order:

ORDER.

Modesto Interurban Railway having applied to this Commission for authority to issue promissory notes in the total sum of $12,423.32, and for authority to mortgage certain property in the city of Modesto, as hereinbefore set forth; and a public hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue $10,000.00 face value of said notes are not reasonably chargeable in whole or in part to operating expenses or to income, and that the purposes for which it is proposed to issue $2,423.32 face value of said notes are properly chargeable to income;

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It is hereby ordered that Modesto Interurban Railway be and it is hereby authorized to issue its promissory notes as follows:

Payable	Payee	Principal sum	Interest
On or before 12 months.	Union Savings Bank of Modesto	$4,000 00	Not to exceed 8%
One year	T. K. Beard	8,423 32	Not to exceed 7%
Total		$12,423 32	

It is hereby further ordered that Modesto Interurban Railway be and it is hereby authorized to mortgage the following described property as security for the above mentioned note in the sum of $4,000.00, payable to Union Savings Bank of Modesto:

> "Lots 17 to 32, inclusive, in block 78; lots 17 to 32, both inclusive, in block 79; and lots 17 to 32, both inclusive, in block 80, all in the city of Modesto, county of Stanislaus and State of California, according to the official map or plat of said town, now on file and of record in the office of the county recorder of the county of Stanislaus."

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The notes herein authorized to be issued shall be issued so as to net applicant not less than their face value.

2. The proceeds from the notes herein authorized to be issued shall be used solely for the purpose of repaying T. K. Beard for moneys advanced by him and used by Modesto Interurban Railway in paying principal and interest on its promissory note, dated March 8, 1912, to First National Bank of Modesto, in the sum of $10,000.00.

3. The sum of $2,423.32 of the note herein authorized to be issued to Mr. T. K. Beard shall not be permanently capitalized, but, within such period of time as this Commission may direct, shall be paid off and discharged by applicant either out of its earnings or by an assessment on its capital stock.

4. Modesto Interurban Railway shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the notes herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said notes during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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5. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

6. The authority herein granted to issue notes and mortgage property shall apply only to such notes as shall have been issued and such property as shall have been mortgaged on or before October 31, 1916.

Dated at San Francisco, California, this 12th day of May, 1916

DECISION No. 3329.

IN THE MATTER OF THE APPLICATION OF MODESTO GAS, LIGHT, COAL AND COKE COMPANY FOR AN ORDER AUTHORIZING IT TO TRANSFER ALL OF ITS PROPERTY TO MODESTO GAS COMPANY.

Application No. 2206.

IN THE MATTER OF THE APPLICATION OF MODESTO GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF NINE HUNDRED NINETY-FIVE SHARES OF ITS CAPITAL STOCK, AND THE EXECUTION OF AN AGREEMENT ASSUMING ALL THE LIABILITIES OF THE MODESTO GAS, LIGHT, COAL AND COKE COMPANY, AND FOR AN ORDER AUTHORIZING THE CREATION OF A BONDED INDEBTEDNESS AND THE ISSUE OF BONDS.

Application No. 2207.

Decided May 13, 1916.

Modesto Gas, Light, Coal and Coke Company authorized to transfer its properties to the Modesto Gas Company, which latter named company is authorized to assume all indebtedness of the former, to issue 995 shares of its capital stock of the par value of $100.00 per share in payment for such properties, to execute a mortgage securing bonds of the face value of $200,000.00, and to issue $65,000.00 face value of such bonds, to be sold at not less than 90, proceeds to be used to refund certain of the assumed indebtedness and for additions to plant. Authorization conditions upon the filing by Modesto Gas Company of a stipulation to the effect that no value shall ever be claimed for any franchise transferred hereunder in excess of the actual cost thereof.

Walter D. Mansfield, for Applicants.

REPORT OF THE COMMISSION.

Of the two above entitled applications, the first requests an order of this Commission authorizing Modesto Gas, Light, Coal and Coke Company, a California corporation engaged in the business of furnishing gas to the inhabitants of Modesto, Stanislaus County, hereinafter designated and referred to as the "old company," to transfer all of its property, both real and personal, to Modesto Gas Company, a California

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corporation, hereinafter designated and referred to as the "new company," which has been organized for the purpose of taking over the business of the old company in consideration of the new company issuing 995 shares of its capital stock to the old company and assuming all of its obligations and indebtedness. The second is an application by the new company for an order authorizing it to issue to the old company 995 shares of its capital stock of the par value of $100.00 per share, and to execute and deliver to the old company its written agreement to assume and discharge all the liabilities of said old company, and for an order authorizing the execution of a mortgage or deed of trust securing $200,000.00 face value of 30-year 6 per cent bonds, and the issue and sale of $65,000.00 face value of said bonds at not less than 90 per cent of their face value.

These two applications were consolidated, with the applicants' consent, at the public hearing which was held in San Francisco April 25, 1916. From the evidence it appears that the old company, after receiving authority from this Commission on December 9, 1915, by Decision No. 2963, to create a bonded indebtedness of the face value of $200,000.00, and to issue and sell $65,000.00 face value of its bonds at not less than 90, found it difficult to sell the same owing to the fact that the prospective purchasers considered the remainder of the company's corporate existence too short to afford the bonds absolute protection; and in order to overcome this objection the new company was organized on March 20, 1916, for a term of fifty years.

Both companies have an authorized capital stock of 1,000 shares of the par value of $100.00 each. The stock of the old company is all issued and outstanding, while the new company has issued only the five shares necessary for the purpose of incorporation, which shares were issued at par. The old company will disincorporate as soon as practicable after the transfer has been made, and will distribute the shares of stock received in consideration for the transfer to its stockholders in accordance with their various holdings in the old company. The new company then desires to create a bonded indebtedness and to issue the same amount of bonds as the old company was authorized to issue under Decision No. 2963 (*supra*), and to apply the proceeds to substantially the same uses.

W. J. Hammond, one of the Commission's assistant engineers, made an examination of the old company's property and submitted a report upon the same. In this report the reproduction cost and the depreciated reproduction cost of applicants' physical properties is estimated

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as follows, the depreciation being computed under the straight line method:

Item	Reproduction cost	Age, years	Life, years	Reproduction cost less depreciation
Land	$15,135 00			$15,135 00
Production plant	13,916 00	5	35	11,928 00
Gas holders	17,866 00	5	50	16,079 00
Boilers and accessories	4,456 00	3	30	4,010 00
Gas generators	12,145 00	5	25	9,716 00
Accessory equipment at works	15,319 00	5	28	12,583 00
Purification apparatus	1,777 00	8	20	1,066 00
Gas mains—				
2-inch W.I.	5,361 00	8	25	3,645 00
2½-inch W.I.	2,167 00	7	28	1,625 00
4-inch W.I.	34,668 00	6	35	28,748 00
4-inch C.I.	1,336 00	10	55	1,093 00
6-inch C.I.	1,459 00	20	65	1,010 00
8-inch C.I.	2,846 00	10	75	2,466 00
Gas service	7,518 00	6	20	5,263 00
Gas meters—				
Light tin	7,376 00	5	20	5,532 00
Iron	1,911 00	2	25	1,757 00
Municipal street lights	8,893 00	3	15	7,114 00
Commercial gas arcs	2,137 00	4	10	1,282 00
Miscellaneous distribution equipment	542 00	4	10	325 00
General equipment	8,159 00	2	7	5,828 00
Materials and supplies	5,457 00	2	8	4,093 60
Totals	$170,444 00			$140,298 00

Assuming the present value of the physical property of the old company for selling purposes to be $140,298.00, and adding thereto the value of the old company's outstanding solvent accounts, as estimated by the company's general manager at $10,000.00, we have the total amount of $150,298.00.

From the proceeds of the proposed issue of $65,000.00 par value of bonds at 90, the new company will devote $49,518.31 to discharging the debts of the old company. The remaining $8,981.69 will be spent for the extension of mains and services in the Maze Addition in the city of Modesto. To the sum of $150,298.00 should accordingly be added the $8,981.69, so to be applied as well as the $500.00 received from the issue of the 5 shares of stock for organization purposes, resulting in a total of $159,779.69 as the estimated selling value of the property acquired by the new company and certain extensions to be made by it in the Maze Addition, without making any allowance for intangible values. From this amount should be deducted $65,000.00, representing the bonds that will then be outstanding, leaving the sum of $94,779.69 as representing the tangible value of all of the old company's outstanding stock.

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ORDER.

Modesto Gas, Light, Coal and Coke Company, a California corporation, having applied to this Commission for an order authorizing it to transfer all of its property to Modesto Gas Company, a California corporation, and Modesto Gas Company having applied to this Commission under a separate application for an order authorizing the creation of a bonded indebtedness of $200,000.00 face value of first mortgage 6 per cent 30-year gold bonds, and the issue of $65,000.00 of said bonds at not less than 90 per cent of their face value, and the issue of 995 shares of its capital stock of the par value of $100.00 per share, and the execution of an agreement assuming all the liabilities of Modesto Gas, Light, Coal and Coke Company, and for an order authorizing the creation of a bonded indebtedness and the issue of bonds, and a public hearing having been held at which the two applications were consolidated, and the Commission finding that the purposes for which the stock is to be issued and the proceeds of the bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Modesto Gas, Light, Coal and Coke Company be and it is hereby authorized to execute an indenture substantially in the form of the draft of indenture annexed to Application No. 2206 and designated as Exhibit No. 1, transferring all of its property, real and personal, including choses in action, to Modesto Gas Company in consideration for 995 shares of the capital stock of Modesto Gas Company and the assumption by the last mentioned company of all the liabilities of Modesto Gas, Light, Coal and Coke Company.

It is hereby further ordered that Modesto Gas Company be and it is hereby authorized to execute an instrument substantially in the form of the draft annexed to Application No. 2206, and designated as Exhibit No. 1-a, thereby assuming and agreeing to pay and discharge all just debts, liabilities and obligations of said Modesto Gas, Light, Coal and Coke Company.

It is hereby further ordered that Modesto Gas Company be and it is hereby authorized to execute a mortgage or trust indenture to the Union Trust Company of San Francisco substantially in the form of the proposed indenture filed with this Commission on May 5, 1916, and marked Exhibit B, to secure the proposed bond issue of $200,000.00 face value of bonds as therein set forth.

It is hereby further ordered that Modesto Gas Company be and it is hereby authorized to issue and sell under said trust indenture, bonds to the par value of $65,000.00.

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The authority herein granted is granted subject to the following conditions and not otherwise:

1. Modesto Gas Company shall sell said $65,000.00 of bonds so as to net said company not less than 90 per cent of the face value of the principal thereof, in addition to accrued interest thereon.

2. The proceeds from the sale of said bonds shall be applied only as follows:

Refunding the promissory note of the old company dated January 2, 1912, in favor of Frank A. Cressey	$27,663 65
Refunding the promissory note of the old company dated February 14, 1914, in favor of Frank A. Cressey	15,114 35
Refunding indebtedness of the old company for cash advanced to it by Frank A. Cressey	3,000 00
Refunding the old company's indebtedness to Farmers and Merchants National Bank of Modesto upon its open account	3,740 31
For the extension of the new company's gas mains and services in the Maze Addition to the city of Modesto	8,981 69
Total	$58,500 00

3. The authority herein given to Modesto Gas, Light, Coal and Coke Company to convey its property to Modesto Gas Company shall not become effective until Modesto Gas Company shall have filed with the Railroad Commission a stipulation authorized by its board of directors agreeing that Modesto Gas Company, its successors and assigns, will never claim before the Railroad Commission or any other public authority in any proceeding any value for the so-called constitutional franchise, or any other franchises to be conveyed by Modesto Gas, Light, Coal and Coke Company to Modesto Gas Company in excess of the actual cost to Modesto Gas, Light, Coal and Coke Company of acquiring the same, and shall have secured from the Railroad Commission a supplemental order reciting that such stipulation in form satisfactory to the Railroad Commission has been filed herein.

4. Modesto Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to this Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The approval herein given of the mortgage or indenture for the proposed bond issue is for the purpose of this proceeding only, and an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said

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mortgage as to such other legal requirements to which said mortgage may be subject.

6. The authority herein given to issue and sell bonds, to issue stock and to convey property, shall apply to bonds or stock so issued and property so conveyed on or before December 31, 1916.

7. This order shall not become effective until the fee prescribed by section 56 of the Public Utilities Act has been paid.

Dated at San Francisco, California, this 13th day of May, 1916.

DECISION No. 3330.

IN THE MATTER OF THE APPLICATION OF MARTINEZ AND CONCORD INTERURBAN RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AND FOR AN ORDER AUTHORIZING AN ISSUE OF STOCKS AND BONDS.

Application No. 2125.

Decided May 13, 1916.

Applicant authorized to issue 600 shares of common stock to be sold at not less than 80, and $125,000.00 face value of first mortgage bonds to be sold at not less than 90, proceeds to be used in the construction of its proposed line of railway from Martinez to Government Ranch, also to issue 100 shares of stock for promotion and organization expenses, 50 shares to be issued at present and 50 shares after the road shall have been completed. Applicant is also authorized to issue $125,000.00 face value cumulative participating bonds for the purpose of retiring the first mortgage bonds herein authorized; however, none of such stock or bonds to be issued until applicant shall have secured a franchise from the town of Martinez, and thereafter secured a certificate from the Commission authorizing the exercise of rights granted thereunder.

Clifford McClellan and *J. B. Rogers*, for Applicant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner.*

Martinez and Concord Interurban Railway Company was organized on January 22, 1916. It proposes to construct and operate a line of electric railway from the town of Martinez to the town of Concord, both in Contra Costa County. In connection with this application (No. 2125) it proposes to construct and operate its railway from Martinez to Government Ranch, a distance of six and one-half miles.

The route which the applicant proposes to follow extends along Escobar street and Peyton road to the easterly limits of the town of Martinez; thence over private rights of way to the Associated Oil plant near Avon; thence to a connection with the Oakland, Antioch and Eastern Railway at Government Ranch, about two miles south of the town of Bay Point and about three miles north of Concord. The line

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thus projected will pass in close proximity to such large industrial establishments as the Shell Petroleum Company, the Associated Oil Company, the Mountain Copper Company, General Chemical Company and Hooper Lumber Company.

The promoters of this enterprise believe that this territory offers a remunerative freight and passenger business. They also rely upon the industrial and real estate development in the neighborhood of Martinez for the success of their venture.

In the matter herein the applicant applies for a certificate that public convenience and necessity will require the exercise by it of rights and privileges to be conferred under a franchise for the operation of a street railway within the limits of the town of Martinez. At the time of the hearing the applicant had not obtained the franchise in question and I shall not pass upon this phase of the application until the franchise shall have been obtained.

The applicant further asks authority from this Commission to issue certain shares of stock and bonds. In the amended application authority was asked to issue 1,050 shares of stock at $45.00 per share. Under date of April 29, 1916, however, the applicant requested authority to issue 600 shares of stock at $80.00 per share. It has also asked for authority to issue 210 shares of its stock to cover organization costs and promotion services. The applicant proposes also to issue $125,000.00 of first mortgage 20-year bonds to be sold at 90 per cent of face value. Request is also made for authority to issue $125,000.00 of what the applicant calls "cumulative participating bonds," to be sold at par for the sole purpose of retiring the $125,000.00 of first mortgage bonds.

The applicant estimates that the cost of its line will be $159,499.00. It has submitted a detailed estimate which may be summarized as follows:

Grading	$17,981 00
Bridging	16,685 00
Culverts	1,472 00
Ballast	13,875 00
Ties	10,614 00
Rails	17,640 00
Angle bars, bolts and nuts	1,580 00
Spikes	1,300 00
Track laying and surfacing	5,901 00
Track crossings	2,730 00
Switch sets	2,100 00
Spurs and sidings	5,100 00
Rail bonding	1,506 00
Trolley construction	11,050 00
Right of way fencing	2,415 00
Telephone and power line crossings	600 00
County road crossings	100 00

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Substation and apparatus	$7,250 00
Equipment	12,350 00
Rights of way and terminals	5,500 00
Buildings	3,900 00
Street macadamizing	3,350 00
Engineering, legal and contingent, 10 per cent	14,500 00

This construction includes a drawbridge, a crossing over the tracks of The Atchison, Topeka and Santa Fe Railway and with the tracks of the Southern Pacific Company.

The applicant has estimated its annual gross earnings at the beginning of operation at $33,105.50, and its operating expenses, taxes, depreciation and bond interest at $28,670.75. I believe the applicant has been optimistic in its estimate of earnings, but the projectors of the enterprise believe that the territory will offer augmented business from year to year, and are willing to forego returns for some time at least upon their stock investment.

The applicant states that it will place the stock in the hands of a small group, and that the shares will not be offered generally to the public. Its representatives state also that they have a satisfactory arrangement for the sale of the bonds at 90 per cent of face value. Under the plan of finance herein proposed, it is intended to issue $125,000.00 of the so-called participating bonds for the purpose of retiring the first mortgage bonds. It is stated that certain large landholders who will be benefited by the construction of the railway have agreed to underwrite these "cumulative participating bonds" at par. The payments for these bonds will be made serially, and as these payments accrue the first mortgage bonds will be retired.

It is anticipated that the entire issue of $125,000.00 of first mortgage bonds will be retired in twenty years and, assuming no further construction, the "cumulative participating bonds" in the sum of $125,000.00 will then be outstanding. These "cumulative participating bonds" will be issued under a trust agreement, but as originally planned were not to be a lien upon the property of the railroad.

The applicant has however given consideration to the amendment of its plan of finance so that the first mortgage bonds as retired will become security for the "cumulative participating bonds." The details in regard to these financial features remain to be worked out, and such order as may be issued herein will be preliminary.

The applicant has provided in its articles of incorporation for an issue of 2,000 shares of stock of the par value of $100.00 per share.

For organization purposes it has issued 70 shares of its stock. It will be provided that new shares may be issued in lieu of those now out.

The proposal to issue 210 shares of common stock for organization and promotion costs had in mind originally an issue at $45.00 per share.

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As the plan has since been altered to place the stock on a basis of $80.00 per share, I shall recommend that the applicant be authorized to issue $10,000.00 par value of stock for organization and promotion services. The sale of the 600 shares at $80.00 per share and $125,000.00 of first mortgage bonds at 90, will bring $160,500.00 in cash, which will cover the cost of the enterprise according to the estimates submitted.

As the nature of the presentation will require a final order, the order herein will be merely preliminary. Accordingly I recommend the following form of order:

ORDER.

Martinez and Concord Interurban Railway Company having applied to this Commission for a certificate of public convenience and necessity and for authority to issue stocks and bonds as set forth in the preceding opinion, and a hearing having been held and this Commission being fully advised in the premises,

It is hereby ordered that Martinez and Concord Interurban Railway Company be granted authority and it is hereby granted authority to issue 600 shares of stock to be sold at not less than $80.00 per share.

It is further ordered that Martinez and Concord Interurban Railway Company be granted authority to issue 100 shares of stock, in the aggregate, of the par value of $100.00 per share, to be issued to Mr. Clifford McClellan and Mr. J. B. Rogers, to reimburse them for expenditures incurred in connection with the organization of Martinez and Concord Interurban Railway Company, and for promotion services in connection with said railway; 50 shares to be issued forthwith, and 50 shares after the line of railway shall have been completed from Martinez to Government Ranch.

It is further ordered that Martinez and Concord Interurban Railway Company be granted authority and it is hereby granted authority to issue $125,000.00 of first mortgage bonds, to be sold at not less than 90 per cent of face value.

It is further ordered that Martinez and Concord Interurban Railway Company be granted authority to issue $125,000.00 face value of cumulative participating bonds to be sold at not less than par, the proceeds from said bonds to be used exclusively for the retirement of the $125,000.00 of first mortgage bonds herein authorized to be issued.

Of the stock herein authorized to be issued, seventy shares shall be issued in lieu of seventy shares heretofore issued by the applicant in connection with its organization.

The proceeds derived from the sale of the stocks and bonds herein authorized to be issued shall be used solely for the purpose of constructing applicant's line of railway in accordance with applicant's estimate as filed with this Commission, and in accordance with such

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agreement or contract as may hereafter be approved by this Commission in supplemental order.

The applicant shall begin the construction of its line of railway only after it shall have placed in its treasury the funds received from the stock and first mortgage bonds herein authorized to be issued, and shall have first so reported in writing to this Commission such fact, and this Commission shall have made a supplemental order finding such fact.

The authority herein given is conditioned upon the approval by this Commission of the trust deed securing applicant's first mortgage bonds and the indenture securing applicant's cumulative participating bonds.

The authority herein given shall apply to such stocks and such bonds as shall have been issued on or before May 1, 1917.

None of the stocks and bonds herein authorized to be issued shall be issued until this Commission shall have issued a supplemental order finding that applicant has obtained a franchise for the operation of a railway in the town of Martinez, and the Commission shall have made a finding that public convenience and necessity require the exercise of the rights granted in such franchise.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 13th day of May, 1916.

DECISION No. 3331.

IN THE MATTER OF THE APPLICATION OF MODESTO GAS, LIGHT, COAL AND COKE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS AND THE EXECUTION OF A MORTGAGE OF ITS PROPERTY.

Application No. 1918.

Decided May 13, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas Modesto Gas, Light, Coal and Coke Company was on the ninth day of December, 1915, by order of this Commission (Decision No. 2963), granted authority to create a bonded indebtedness of $200,000.00 of first mortgage 6 per cent 30-year gold bonds, and to issue and sell $65,000.00 face value of said bonds; and

Whereas Modesto Gas, Light, Coal and Coke Company on April 13, 1916, filed with this Commission Application No. 2206, under which it

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requested authority to transfer all of its property to Modesto Gas Company; and

Whereas this Commission has by Decision No. 3329 granted said application,

It is hereby ordered that all authority heretofore granted to applicant in the original order in the above entitled matter, under Decision No. 2963, for creating a bonded indebtedness, for issuing bonds or for any other purpose whatsoever, be and the same is hereby annulled and canceled.

Dated at San Francisco, California, this 13th day of May, 1916.

DECISION No. 3332.

IN THE MATTER OF THE APPLICATION OF MOORPARK WATER, LIGHT AND POWER COMPANY FOR PERMISSION TO ISSUE CAPITAL STOCK AND ACQUIRE WATER PLANT.

Application No. 2079.

Decided May 13, 1916.

Applicant authorized to issue 127 shares of stock of the par value of $25.00 per share, in lieu of stock heretofore issued without authorization, and an additional three shares to stockholders entitled to subscribe therefor. It is also directed to proceed with reasonable diligence, to develop such additional water as may be necessary, and, pending such development, to confine service to 75 consumers, enforcing suitable rules to prevent waste of water. This water property was heretofore transferred without making application to the Commission; accordingly, W. L. Wicks is authorized to transfer water properties owned by him at Moorpark to applicant.

M. L. Wicks, for Applicant.

REPORT OF THE COMMISSION.

Moorpark Water, Light and Power Company applies to the Railroad Commission for authority to (*a*) issue 67 shares of its capital stock in lieu of a like number of shares heretofore issued without the authority of the Commission; (*b*) purchase property heretofore purchased without authority; (*c*) sell 67 additional shares of its capital stock at 80 per cent of the par value thereof, and declare a stock dividend of 60 per cent to present stockholders, to apply upon the purchase of said new shares; and (*d*) issue note for $3,000.00, secured by mortgage on all its property, and use the proceeds in making extensions and improvements and refunding mortgage note for $1,250.00, hereinafter described.

Applicant was incorporated in July, 1912, with an authorized capital stock of $10,000.00, divided into 400 shares of the par value of $25.00 each, for the purpose of purchasing the water system supplying

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domestic water to the 200 inhabitants of Moorpark, Ventura County. The organizers did not know and were not advised that it was necessary to have the approval of the Commission before the stock was issued and before the utility was sold to it.

The water system was installed about thirty years ago. It was acquired in 1900 by M. L. Wicks, who operated it until July, 1912, when applicant was organized by him and eighteen residents of Moorpark. It then purchased and paid for the system, which was at once delivered by Mr. Wicks, who now joins in the application for authority to sell.

For the system of pipes, tanks, tunnels and five acres of water-bearing land, Mr. Wicks received $2,500.00. One-half of the amount was raised by selling 50 shares of the capital stock at $25.00 per share, their par value. The remaining $1,250.00 was borrowed from Oxnard Savings Bank upon a one-year note, bearing interest at 7 per cent per annum, payable in July, 1913, secured by mortgage upon all of the company's property. The interest upon this note has been promptly paid, but the note has not been extended or renewed. Applicant wishes to pay it from the proceeds of a new note to the bank for $3,000.00, for which it has arranged, to be secured by mortgage upon all of applicant's property.

Applicant's water is obtained from three tunnels on its five acres of water-bearing land. Water flows by gravity into three tanks, having a total capacity of about 35,000 gallons, all located on two city lots. The water tunnels are 4 by 5½ feet, and 156 feet, 56 feet, and 140 feet long, respectively. All but 30 or 40 feet of the latter has caved in at the rear. It does not now produce water, but did produce about a quarter of an inch. Applicant estimates the total water now flowing from the three tunnels at about three-quarters of an inch, and that 10 per cent of the water is lost for lack of storage facilities during about nine months of the year, including the rainy season. The water from the tunnels is conveyed through 2,200 feet of two-inch pipe to the tanks. From the tanks the water passes into mains, which consist of about 6,535 feet of two-inch pipe and about 1,332 feet of one-inch pipe, leading to 75 services, 63 of which are now revenue-producing. Of the one-inch pipe about 1,000 feet is in poor condition but still in service. Applicant plans to abandon it and serve through new two-inch pipes. The pipe connecting the tunnels with the tanks was installed when the plant was originally built, but is reported in good condition. About three-quarters of the two-inch distribution main was installed about three and one-half years ago.

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Applicant pumps water for one consumer. The pump and gasoline engine were installed at a total expense of $110.00, of which the consumer paid $10.00. The consumer operates the pump and pays for the oil and gasoline, beside paying the usual rate.

Applicant considers it has not sufficient water to fully supply the present demand during about three months in the summer. It wishes to develop more water by tunneling at a probable cost of about $1,000.00, and to install a cement storage reservoir on the two lots where the tanks are located. It estimates that a new tunnel will treble the present water supply. Applicant anticipates considerable increase in the demands upon it for water through the present growth of the community. Practically all of its available water supply is being served to consumers. The water is being served to consumers under flat rates and with very little control of water use. The usual experience of water utilities is that metering a system reduces the use about one-third. At least until further water is developed we think it advisable for applicant to more carefully regulate the use of water. From the first of May until the fall or winter rains come, and while applicant is developing or conserving sufficient water, we suggest that the company establish rules under which it may, if and when necessary, limit the use of water to strictly domestic purposes. Meanwhile active services should be limited to 75. Metering the system will probably save water enough to equal and increase of one-third in supply and thus produce an attractive return upon the needed investment of about $700.00. Applicant may upon further consideration conclude to meter its system, thus conserving water and relieving its present needs.

We think it probable that a very careful investigation of water conditions will indicate to applicant methods in which the supply may be developed for considerably less than its estimate of $1,000.00. Development work or metering should be begun at once and vigorously prosecuted. Until such a supply is developed or conserved there will be no need for further storage capacity. The present storage capacity will accommodate about four days' supply. An increased supply can be cared for by tanks for the present instead of the proposed cement reservoir. The amount of money needed by applicant for conserving water by metering or for developing and storing water can not be well determined now. Upon the financial showing made by applicant, however, it can probably borrow at the bank without real estate security such sums as it may need for the work, upon notes maturing in less than one year, and requiring no specific authority from the Commission under the Public Utilities Act. When its final needs are determined, a suitable supplemental order can be entered authorizing the issue of note secured by mortgage.

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From such data as can be obtained applicant's financial condition appeared to be substantially as follows on December 31, 1915:

Assets.

Preliminary expenses	$89 12
Real estate, water storage tanks, piping and distribution system, at cost	3,754 52
Cash on hand	301 57
	$4,145 21

Liabilities.

Capital stock issued, 60 shares at $25.00, fully paid	$1,500 00
Capital stock sold, 39 shares at $20.00, $5.00 paid	195 00
Notes payable	1,250 00
Undivided profits	1,200 21
	$4,145 21

Since December 31, 1915, five shares of stock have been sold at par and 23 shares at $20.00 each, paid for by $5.00 per share cash, and $15.00 per share applied from earnings hereinbefore made and reinvested in the property. Through error the application states that 67 shares were sold and issued at $25.00 per share.

Its revenue, expenses and surplus for the two years ending December 31, 1915, are reported as follows:

	1914	1915
Operating revenue	$671 84	$866 00
Operating expenses	331 54	255 63
Net operating revenues	$340 30	$610 37
Deduct interest on $1,250.00 note	87 50	87 50
Balance to corporate surplus accounts	$252 80	$522 87

The only salary paid by applicant is $30.00 per year. Its water revenue is collected for a commission of 5 per cent. Its first dividend was paid in January, 1916, being at the rate of 6 per cent. Other earnings have been put into the system.

Applicant sought to finance the needed improvements through sale of its stock. It believed it was necessary under the law to have $3,000.00 par value of stock issued before it could legally borrow the $3,000.00 which it estimated it would need. This is not necessary under section 52 (*b*) of the Public Utilities Act. Finding that its stock was not salable locally for cash at par, it offered to apply out of earnings invested in the system $15.00 per share upon the purchase price of stock which it offered at 80 per cent of its face value, or $20.00 per share, thus requiring the cash payment of only $5.00 per share.

As stated 62 of the 65 new shares have been subscribed and paid for in the manner indicated. The holders of the remaining three shares of

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stock originally issued, or the assignees of their rights to subscribe and receive the new stock on the above terms, should promptly take up the three shares of new stock so that all stockholders may stand upon an equal footing.

It clearly appears that applicant throughout has acted in ignorance of the requirements of the Public Utilities Act. Order authorizing the purchase of property is not necessary. Authority to Mr. Wicks to sell will be included in the order.

ORDER.

Moorpark Water, Light and Power Company having applied to the Railroad Commission for authority to issue stock and to issue a note for $3,000.00 and apply the proceeds thereof to the refunding of a note to Oxnard Savings Bank for $1,250.00, due in July, 1913, and to betterments and improvements, and to secure the payment thereof by mortgage upon all of its property, and a public hearing having been held upon said application, and the Commission having found that the money or property procured by the issue of said stock and said note for $1,250.00 is reasonably required for the purposes of applicant's business, and that such purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Moorpark Water, Light and Power Company be and it is hereby authorized:

(*a*) To issue 65 shares of its capital stock of the par value of $25.00 each, in lieu of and upon the cancellation and surrender of all of the 65 shares of its capital stock heretofore fully paid for at the rate of $25.00 per share and issued without the authority of the Commission.

(*b*) To issue 62 additional shares of its capital stock of the par value of $25.00 each to the holders of, and in lieu of and upon the surrender and cancellation of, 62 shares of its capital stock heretofore issued without the authority of the Commission at the price of $20.00 per share, $5.00 per share therefor having heretofore been paid to applicant in cash and $15.00 per share therefor having heretofore been paid out of earnings.

(*c*) To hereafter issue 3 additional shares of applicant's capital stock, of the par value of $25.00 each, upon the same terms and conditions to the remaining three shareholders entitled to subscribe for and receive such stock upon said terms, or to their assignees of their rights to subscribe therefor.

Said M. L. Wicks is hereby authorized and empowered to sell said system, and is directed to hereafter execute and deliver to applicant conveyance transferring to it a good title thereto.

It is hereby further ordered that Moorpark Water, Light and Power Company proceed at once to develop more water as rapidly as may be practicable; that until further water is developed or the system metered,

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and until the further written authority of the Commission is received, applicant shall limit the service of water to 75 services, and may under equitable rules serve water for domestic purposes only, making and enforcing suitable regulations to prevent waste of water. Said rules and regulations shall be filed with the Commission within thirty days.

The authority herein granted is upon the following conditions and not otherwise:

(1) All shares of stock herein authorized to be issued in lieu of shares of stock heretofore issued without the authority of this Commission shall be issued only upon the surrender and cancellation of the stock certificate or certificates representing said shares heretofore issued without such authority.

(2) None of the above described 65 shares of additional stock paid for or to be paid for by $5.00 per share in cash, and $15.00 per share out of earnings, as herein authorized, shall be issued until all 65 of said additional shares have been so paid for.

(3) The authority herein granted shall extend only to such certificates of stock as shall be issued and to such conveyance as shall be executed and delivered within sixty days after the date hereof.

(4) On or before the twenty-fifth day of each month applicant shall make verified report to the Railroad Commission of amounts disbursed for development of water or metering system; of stock issued, the consideration received therefor, with certificate numbers and all data required by General Order No. 24, which order, in so far as applicable, is made part of this order; and it shall report at said times, with full data in detail, the stock certificates surrendered and canceled in lieu of new certificates issued.

(5) Within thirty (30) days after the delivery of said deed from said Wicks to applicant, applicant shall furnish to the Commission a copy thereof and report in writing the fact and date of delivery of deed.

Dated at San Francisco, California, this 13th day of May, 1916.

DECISION No. 3333.

IN THE MATTER OF THE APPLICATION OF J. A. TOWER, DOING BUSINESS UNDER THE NAME AND STYLE OF CALAVERAS TELEPHONE COMPANY, FOR AN ORDER AUTHORIZING CERTAIN INCREASES IN RATES FOR TELEPHONE SERVICE.

Application No. 1929.

Decided May 13, 1916.

Applicant, operating a small telephone exchange in Calaveras County, applies for permission to establish an increased schedule of rates. Investigation shows that applicant's present toll rates are discriminatory as between subscribers and

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nonsubscribers, also that the proposed schedule contains discriminatory rates; application accordingly dismissed and applicant is directed to eliminate the discriminations mentioned.

REPORT OF THE COMMISSION.

This is an application of J. A. Tower, doing business under the name and style of Calaveras Telephone Company, for permission to increase certain rates.

A public hearing was held in Milton, Calaveras County, on March 22, 1916. From the evidence it appears that applicant owns and operates a telephone system connecting the communities known as Milton, Felix, Copperopolis, Jenny Lind, Hodson and Angels Camp and intermediate and adjacent territory in the western portion of Calaveras County.

Applicant's system includes, according to his estimate, approximately 175 miles of wire and 1,600 redwood poles, some of which are 20 feet in length, the remainder being 18 feet. The poles on the line from Copperopolis and Hodson are 6 by 6 inches in cross-section, while those on the rest of the system are 4 by 6 inches.

The central office exchange for the system is located at Felix, from which point lines run as follows:

To Angels Camp (via Nassau)	Approximately 14 miles
To Jenny Lind	Approximately 14 miles
Party line to Milton	Approximately 9 miles
Toll line to Milton	Approximately 9 miles
To Copperopolis (via Hodson)	Approximately 7 miles

There are, in addition, two or three other party lines running out some distances from Felix. The lines to Copperopolis, Angels Camp and Milton are metallic circuits, the rest of the system, except for a small portion of the line to Jenny Lind, being grounded.

Applicant commenced his operations 17 years ago on a much smaller scale than at present. Since that time he has either built or rebuilt the following lines at the dates set forth:

Felix to Hodson	1903
Felix to Milton	1904
Felix to Angels Camp	1904
Copperopolis to Hodson	1906

Applicant operates the exchange at his residence where he has a Western Electric 1200-type switchboard, which was installed in January, 1915. Applicant has at present 54 subscribers with services as follows:

Residence telephones on 10-party lines	39
Business telephones on 10-party lines	13
Residence telephones on individual lines	1
Business telephones on individual lines	1

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Applicant's wife operates the exchange from 7:30 a.m. to 9 p.m., and while he does not purport to give regular night service, he always operates the exchange himself at night unless he is away from home.

Applicant has not kept any systematic or accurate accounts, owing, evidently, to the fact that he is the sole owner of the system, employs no bookkeeper and fills the position of lineman, collector, night operator, installer of new services and superintendent, without receiving any salary therefor; but we repeat, as we suggested at the hearing, that if only for his own protection, it is important that he should keep some sort of accurate record of his receipts and disbursements.

Applicant testified that his total operating revenue amounts to approximately $1,700.00 a year, while his operating expenses, including taxes, use of automobile for his line work, salary of operator and the payment of casual labor, amount to approximately $934.00 per year, leaving a balance of $774.00 per year from which to pay rental for the telephone office and salary for applicant. As applicant devotes practically his entire time to this work, attending to all the details of line work, operation and management, as above set forth, if he were paid an adequate or reasonable salary there would be nothing left for interest or depreciation.

Applicant estimates the reproduction cost new of his property to be from $5,500.00 to $6,000.00, and while we are not at this time passing upon the valuation of the property, there is no question in our minds but what applicant is entitled to an increase in his revenue equal to the slight increase which he hoped to receive from the proposed changes in tariff.

Applicant's present rates are as follows:

For residence telephones on 10-party lines	$2 00 per month
For business telephones on 10-party lines	2 25 per month
For residence telephones on single lines	5 00 per month
For business telephones on single lines	6 00 per month

These rates entitle subscribers to free telephone service over applicant's entire system, but for nonsubscribers applicant now charges the following toll rates:

Between all points and Angels Camp or Milton, in either direction, 25 cents.

Applicant also charges a telegraph rate of 25 cents for each telegram transmitted over its lines. This rate applies alike to subscribers and nonsubscribers.

Applicant desires to have its regular monthly rates for subscribers and its telegraph rate remain at the figures above mentioned, but wishes to charge subscribers certain toll rates, and wishes to reduce the toll

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rates for nonsubscribers, in the hope of encouraging the latter's patronage, as follows:

Proposed Toll Rates.

Between Felix and Angels Camp, for subscribers	10 cents
For nonsubscribers	15 cents
Between Nassau and Angels Camp, for subscribers	free
For nonsubscribers	15 cents
Between Felix and Milton, for subscribers	free
For nonsubscribers, when using toll line	15 cents
Between Nassau and Milton, for subscribers	10 cents
For nonsubscribers	15 cents

Apparently, applicant is rendering very fair service, and although a notice of the hearing was duly mailed to all of applicant's subscribers, and although a few have written letters to this Commission protesting against the proposed increases, not one of applicant's subscribers appeared at the hearing as a protestant.

Owing to the fact that applicant seeks to obtain authority from this Commission to charge rates which are discriminatory, we shall have to deny the application. This Commission can not authorize any telephone company to charge one rate to its subscribers for toll service and a different rate to nonsubscribers for the same service. Moreover, it is necessary for us to go still further and to require applicant to cease discriminating against nonsubscribers as he is doing under his present tariff. As this will result in applicant's revenues being decreased instead of increased, and as the following order is made solely on the ground of discrimination, existing and proposed, this decision will not prevent Mr. Tower from filing another application for authority to increase his rates provided the increase requested is nondiscriminatory.

ORDER.

J. A. Tower, doing business under the name and style of Calaveras Telephone Company, having applied to this Commission for an order authorizing certain increases in rates for toll service upon his telephone system, as set forth in the foregoing opinion, and a public hearing having been held upon said application,

This Commission hereby finds as a fact that the existing rates are noncompensatory and unreasonable, but that the toll rates at present charged to nonsubscribers between all points and Angels Camp or Milton are discriminatory, inasmuch as no toll rates are charged to subscribers for telephoning between these points.

Basing its conclusions upon the foregoing findings of fact and upon the further findings which are contained in the opinion which precedes this order, and on the fact that the proposed toll rates which applicant is requesting authority to establish would also be discriminatory,

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It is hereby ordered that the application be and the same is hereby dismissed.

It is hereby further ordered that applicant shall immediately cease discriminating between subscribers and nonsubscribers for telephoning over applicant's toll lines.

Dated at San Francisco, California, this 13th day of May, 1916.

DECISION NO. 3334.

IN THE MATTER OF THE APPLICATION OF CLARA BALDWIN STOCKER FOR AN ORDER AUTHORIZING HER TO DISCONTINUE HER BUSINESS OF FURNISHING WATER TO THE CITY OF ARCADIA AND THE INHABITANTS THEREOF.

Application No. 2226.

Decided May 13, 1916.

The city of Arcadia having constructed and put into operation a municipal water distributing system, applicant is granted permission to discontinue service to all of its consumers lying south of White Oak avenue, in said city; provided, that the city shall file a stipulation to the effect that it shall assume all obligations at present resting against applicant.

Gavin McNab, for Applicant.

REPORT OF THE COMMISSION.

Clara Baldwin Stocker applies for authority to discontinue the service of gravity water for domestic purposes from an open uncovered reservoir to about sixty inhabitants of the city of Arcadia in Los Angeles County now served by her.

At the commencement of the hearing applicant's attorney requested that the order apply only to the service from applicant's system in that portion of the city of Arcadia lying south of White Oak avenue, for the reason that two services in the territory north of that street are at such an elevation that it had been found water could not be served to them through the municipal system.

The city of Arcadia has recently installed a complete municipal water system supplied from four wells near Arcadia, from which system all of applicant's patrons south of White Oak avenue can be served, and arrangement has been made to furnish said service. The city engineer of Arcadia testified that the city has an abundant supply of water of excellent quality. The rate established by the city is a minimum of $1.00 per month, including 12,000 gallons of water, with no excess rate fixed. Applicant charges a flat rate of $1.50 per month. It was testified that because of the quality of the city water the lower rate at which it is served and the better facilities for preventing contamination of

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supply, applicant's patrons prefer to be supplied from the municipal system. Notice of the hearing was mailed to each of applicant's patrons. No objection to granting the application was made by any one.

ORDER.

Clara Baldwin Stocker having applied to the Railroad Commission for authority to abandon the service of domestic water to certain inhabitants of the city of Arcadia, Los Angeles County, a public hearing having been held thereon and it appearing to be for the public interest that the application should be granted,

It is hereby ordered that Clara Baldwin Stocker be and she is hereby authorized and empowered to discontinue service of water in that portion of the city of Arcadia lying south of White Oak avenue in said city.

The authority hereby granted is upon the following conditions:

1. That the city of Arcadia assume and discharge all of the obligations now resting by law upon applicant, and within twenty days after the date hereof file an instrument in writing with the Commission in form approved by the Commission, assuming said obligations.

2. The authority hereby granted to discontinue service of water shall extend only to such service connections as are actually provided by the city of Arcadia on or before thirty (30) days after the date hereof.

Dated at San Francisco, California, this 13th day of May, 1916.

Decision No. 3335, grade crossing; not printed. See end of volume.

DECISION NO. 3336.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOS ANGELES TO EXEMPT CERTAIN TELEPHONES IN PUBLIC PLACES FROM THE APPLICATION OF A PREPAYMENT DEVICE.

Application No. 2264.

Decided May 13, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of the petition herein being fully covered by the order in this Commission's Decision No. 421, rendered on January 24, 1913, in Case No. 293, *In the Matter of the Application of Various Public Utilities for Permission to Charge Less than Published Schedule of Rates in Certain Classes of Cases.*

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 13th day of May, 1916.

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Decision No. 3337, grade crossing; not printed. See end of volume.

DECISION NO. 3338.

IN THE MATTER OF THE APPLICATION OF W. S. MUMAW FOR AN ORDER GIVING AUTHORITY TO INCREASE RATES.

Application No. 2165.

Decided May 13, 1916.

Applicant, serving several consumers at Lancaster with water, applies for permission to put into effect an increased schedule of rates. No consumers at present are metered, and they accordingly use excessive amounts of water. Recommendation made that applicant meter all consumers; flat and meter rates established.

W. S. Mumaw, in propria persona.

REPORT OF THE COMMISSION.

The water system owned by the applicant in this proceeding is located in the town of Lancaster, Los Angeles County, and supplies water to thirteen out of about one hundred families living in the town.

Applicant alleges that he has operated the utility at a loss for the last year, inasmuch as the operating expenses were $101.60 and the gross revenues $158.00. Applicant asks that the Commission investigate the conditions surrounding the service which he is rendering and make its order authorizing him to increase the water rate from two dollars ($2.00) per month to four dollars ($4.00) for each party supplied with water from applicant's plant.

The development of this utility came about through Mr. Mumaw extending service to several of his neighbors after he had drilled a well and equipped a plant for his own private use.

A statement of the cost of the items embraced in the water plant was submitted with the application, it being shown that the original cost of the property was $1,182.00.

One of this Commission's hydraulic engineers made an investigation of the property and has found that the amounts set up for each item as listed by applicant are reasonable costs. Exception was taken to the inclusion of the entire value of the tank house, inasmuch as some private use of this structure was had by the applicant entirely apart from any utility service. Making a deduction of one-half the value of the tank house, there results a total of $912.00, which our engineer considered reasonable as basis on which an interest return could properly be allowed.

Applicant has heretofore had in effect a schedule of flat rates, and an investigation was made to determine how much water was pumped and delivered through the system. The result of this investigation shows that the average monthly consumption throughout the year is 15,000 gallons for each consumer, equivalent to 2,000 cubic feet per

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month, which seems reasonable when one considers the nature of the climate at Lancaster.

The items of annual expense which our engineer has found proper, in order that the business may be carried on without a loss, are as follows:

Electricity for pumping	$66 00
Repairs on pump	17 00
Allowance for depreciation	52 00
8 per cent interest on $912.00	73 00
Total	$208 00

It will be noted that there is no allowance herein for salaries, but applicant testified that he was willing to forego salary, if he could receive a return on his investment.

There are thirteen separate houses served by this utility, and as it may be found necessary to meter some of the houses and allow others to continue under the flat rate, we shall recommend a meter schedule of rates, as well as a flat rate schedule, expecting that sooner or later applicant will completely meter his system.

After an examination of the evidence and a careful investigation of the cost of operating this utility, we find that the following rates provide a reasonable return.

Meter Rates.

$1 00 for 600 cubic feet or less per month.
08 for 100 cubic feet excess.

Flat Rates.

$1 00 for house with no outside tap.
1 50 for dwelling with the ordinary taps and house fixtures.
04 per 100 square feet of garden or lawn.

ORDER.

W. S. Mumaw, operating a public utility in the town of Lancaster, Los Angeles County, having made application for an order authorizing an increase in rates for water delivered to residents of the town of Lancaster, and a public hearing having been held and the Commission being fully apprised in the premises,

It is hereby found as a fact that the rates now charged by W. S. Mumaw are unjust and unreasonable in so far as they conflict with the schedule herein authorized, and that the following schedule is just and reasonable for water service furnished by said W. S. Mumaw at Lancaster.

Meter Rates.

$1 00 for 600 cubic feet or less per month.
08 for 100 cubic feet excess.

Meters to be installed at option of utility or consumer. If at option of consumer, consumer will be required to deposit $8.00, which will be credited in the sum of 50 cents per month on subsequent water bills until the deposit is fully returned.

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Flat Rates.

$1 00 per month for house or structure with no outside tap.
1 50 per month for house or structure with the ordinary taps and house fixtures.
04 per 100 square feet of garden or lawn.

Dated at San Francisco, California, this 13th day of May, 1916.

DECISION NO. 3339.

IN THE MATTER OF THE APPLICATION OF THE EASTSIDE CANAL AND IRRIGATION COMPANY FOR PERMISSION TO RESTORE TO A CONSUMER THE RIGHT TO DEMAND WATER UPON THE PAYMENT BY SAID CONSUMER TO SAID COMPANY OF AN ADDITIONAL PENALTY OF TWENTY-FIVE CENTS PER ACRE WHERE SAID CONSUMER HAS FORFEITED HIS RIGHT TO DEMAND WATER FROM THE EASTSIDE CANAL AND IRRIGATION COMPANY THROUGH FAILURE TO PAY HIS WATER BILL AND PENALTY ON OR BEFORE APRIL 14TH, OF ANY YEAR.

Application No. 2233.

Decided May 13, 1916.

The Commission heretofore established a rule that water must be paid for on or before February 1st with a penalty of 25 cents payable on or before April 14th. The company construed this clause to read that if the consumer did not pay the rate and penalty when due, he lost his right to water entirely.

Held, A consumer failing to pay the rates or penalty on the date fixed does not entirely lose his right to water, merely forfeiting his preferential rights, there being, as a rule, a demand exceeding the supply; however, should there be a surplus after consumers paying the rates in advance are supplied, the consumer heretofore failing to pay, is entitled, upon payment of the rate and penalty, to such surplus water. Ruling elaborated to more fully cover this interpretation, application in other respects dismissed.

REPORT OF THE COMMISSION.

On March 31, 1914, the Commission rendered its opinion and order in Case No. 298, *W. D. Adams* vs. *Eastside Canal and Irrigation Company*, and Case No. 309, *In the matter of the investigation on the Commission's own initiative of the rates and practices of the Eastside Canal and Irrigation Company*, reported in Volume 4, Opinions and Orders of the Railroad Commission of California, 597, in which opinion and order the Commission prescribes the rates, rules and regulations governing the service of water by Eastside Canal and Irrigation Company, Rule 16 providing:

> "The failure of any consumer to pay the water rate in advance as herein provided shall exonerate the company from any delivery of water to him during the year of the failure to so pay the rate."

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On August 27, 1914, the Commission made its order denying the application for rehearing in the above mentioned proceedings (Vol. 5, Opinions and Orders of the Railroad Commission of California, 289).

Thereafter, Eastside Canal and Irrigation Company asked that Rule 16 above mentioned be amended so as to provide for a definite date for the advance payment of the rate fixed by the Commission, and that failure to pay the rate at such time should forfeit the right of the consumer to receive water. The Commission believed that there was merit in the company's suggestion, and that such a regulation would insure prompt payment of the rate prescribed by the Commission, and the distribution of water to the full extent of the company's supply to the land most desiring it. A supplemental order was accordingly made on September 10, 1914 (Vol. 5, Opinions and Orders of the Railroad Commission of California, 387), amending Rule 16 above mentioned, to read in part as follows:

> "The rates established in these proceedings shall be payable on or before February 1st, for use during the ensuing season, and in every case in which payment is not made on or before February 14th a penalty of 25 cents per acre shall be added to said rates, and the failure of any consumer to pay the delinquent rate plus the penalty herein prescribed on or before April 14th of the same year shall forfeit the right of such consumer to demand water from said company."

Eastside Canal and Irrigation Company has now filed the present application referring to the rule above mentioned and asking for an order of this Commission authorizing applicant "to restore to said consumer the right to demand water upon the payment by said consumer to said company of an additional penalty of 25 cents per acre."

It is very evident that the canal company is now misconstruing the provision of the order referred to. There is, of course, no intention in that provision permanently to deprive any consumer of the right to receive service from the canal company. We are satisfied that no such intention existed when the company asked for that provision the better to insure the receipt of revenues to which the company was entitled, and that certainly was never the purpose or intention of the Commission in inserting that provision in the order.

The purpose of that provision was simply this: It is well known that in California there is much more land eager for water than can be supplied with water. This is true in the territory served by the Eastside Canal and Irrigation Company. It is highly desirable, therefore, that all of the water be put to use. The rates fixed for the Eastside Canal and Irrigation Company were fixed upon an annual basis payable in advance. If an existing consumer wants water for the ensuing

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season he must pay the rate by February 14th, or the rate plus a penalty by April 14th. The failure to pay up in accordance with the Commission's order loses to the consumer the right and assurance of receiving water which he would otherwise have had. Having failed to make his payment, the company properly may supply to an entirely new consumer the water to which this old consumer would otherwise have been entitled. In other words, the old consumer goes to the foot of the list of those waiting for water.

If the water which would have been supplied to the old consumer, had he made his payments in advance as provided in the order, is sold to a new consumer, the old consumer must wait until water is available for him in his turn, and he is then admitted to service as an entirely new consumer.

If, on the other hand, there is no new consumer demanding the water which would otherwise have been sold to the old consumer—which case we believe will be very rare—the old consumer is still entitled to receive this water, not as a new consumer, but as an old consumer by paying the rate plus the 25 cents penalty.

This was the original purpose in inserting in the order the provision above quoted, and is the only reasonable construction to give to that provision. In order that there can be no misunderstanding, however, we will provide a supplemental order setting forth more clearly the purpose of this provision.

SUPPLEMENTAL ORDER.

It is hereby ordered that Rule 16 of the Rules and Regulations of the Eastside Canal and Irrigation Company, which rule is prescribed in the supplemental order made in Case No. 289 and Case No. 309 on September 10, 1914, be and the same is hereby amended to include the following:

> In providing that a consumer who fails to pay the rate and the penalty by April 14th of any year forfeits his right to demand water from the company, it must be understood that the right to receive water from the company is not permanently lost to such consumer, but that he goes to the bottom of the list of those demanding service from the utility.
>
> If the water which would have been supplied to the old consumer had he paid the rate by February 14th, or the rate and penalty by April 14th, is disposed of to some other party, the old consumer stands in exactly the same position as an entirely new consumer and must await his turn, and if supplied with available water shall pay the rate of a new consumer.
>
> If, on the other hand, there is no other party demanding the water which would have been delivered to the old consumer had he made his payments in accordance with this rule, he may still demand water and the company must deliver it to him—not as a new consumer, however, but as an old consumer who must pay for

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the water, not only at the regular rate, but also the 25 cents per acre penalty which became due on account of his failure to pay the regular rate by the 14th of February.

In all other respects the application herein is denied.

Dated at San Francisco, California, this 13th day of May, 1916.

DECISION No. 3340.

IN THE MATTER OF THE APPLICATION OF RIVERBANK WATER COMPANY FOR AUTHORITY TO ISSUE STOCK; FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A WATER SYSTEM IN HUGHSON, STANISLAUS COUNTY, AND FOR AUTHORITY TO SELL ITS WATER SYSTEM TO RIVERBANK WATER COMPANY.

Application No. 1329.

Decided May 15, 1916.

Applicant was heretofore authorized to issue stock for certain improvements. The improvements cost more than originally estimated, and it is now authorized to issue $4,000.00 par value of additional stock, such stock to be sold at not less than par under conditions as heretofore prescribed.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission, on August 14, 1914, issued an order in the above entitled matter authorizing Riverbank Water Company to issue 43,998 shares of its capital stock of the par value of $1.00 per share (Vol. 5, Opinions and Orders of the Railroad Commission of California, page 251), and

Whereas said order authorized Riverbank Water Company to issue 10,000 of said shares for additions and betterments and improvements at Hughson, Stanislaus County; and

Whereas it was recited in the opinion preceding said order that if the applicant found the cost of the additions and betterments and improvements to the water property at Hughson should exceed $10,000.00, this Commission would entertain an application for a further issue of stock; and the Riverbank Water Company now having made supplemental application herein to cover the additional costs of the improvements and betterments to said water system at Hughson, and it appearing that the amount of said additional costs is $4,000.00,

It is hereby ordered that Riverbank Water Company be granted authority and it is hereby granted authority to issue 4,000 shares of its capital stock to be sold at not less than the par value thereof, the proceeds to be used for additions and betterments to its water property

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at Hughson, Stanislaus County, in accordance with the detailed statement of said costs filed in connection with the supplemental application herein, to which reference is hereby made.

The authority herein given is subject to all of the conditions set forth in this Commission's Decision No. 1735, in so far as they are not in conflict with the order herein.

The authority herein given to Riverbank Water Company to issue 4,000 shares of its capital stock shall apply to such stock as shall have been issued on or before December 31, 1916.

It is further ordered that the time limit fixed for the issue of the stock by Riverbank Water Company in this Commission's Decision No. 1735 be and the same is hereby extended to December 31, 1916.

Dated at San Francisco, California, this 15th day of May, 1916.

DECISION No. 3341.

IN THE MATTER OF THE APPLICATION OF PACIFIC LIGHT AND POWER CORPORATION FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES GRANTED BY THE COUNTY OF KERN BY ORDINANCE No. 117, ADOPTED MARCH 8, 1916.

Application No. 2225.

Decided May 15, 1916.

Applicant applies for a certificate authorizing the exercise of rights granted under a franchise secured from the county of Kern permitting the construction of electrical distributing lines in said county, and such application being subsequently amended to exclude the territory at present served by Southern Sierras Power Company, application granted, provided that applicant file a stipulation to the effect that it shall not claim a value for such franchise other than the actual cost thereof.

S. M. Haskins, for Pacific Light and Power Corporation.

E. B. Criddle, for Southern Sierras Power Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is a petition for a finding by the Railroad Commission that public convenience and necessity require the exercise by Pacific Light and Power Corporation of the rights and privileges granted to said corporation by Ordinance No. 117, of the county of Kern, adopted March 8, 1916, and construction by petitioner thereunder.

A public hearing was held in Los Angeles on May 9, 1916.

A copy of said Ordinance No. 117 is attached to the petition and marked Exhibit "A." This ordinance grants to Pacific Light and

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Power Corporation for the term of fifty years the right to construct, operate and maintain an electric pole and wire system for the purpose of conducting, transmitting and distributing electric energy for lighting, heating and power purposes and for any and all other purposes for which electricity can be used, in, upon and along all public roads, highways, streets, alleys and other public places in that portion of Kern County which is particularly described in the ordinance. The territory thus described is, in general, that portion of Kern County which lies east of a line running from township 25 south, range 31 east on the north to township 9 north, range 20 west on the south.

Petitioner testified that it desires at the present time to serve under said franchise, the following business:

1. The town of Kernville, for lighting and small motors, approximately twenty consumers.
2. The quarry of the county of Kern, at Keene, where a connected load of 385 horsepower is now installed.
3. The town of Tehachapi, where electric energy is wholesaled by petitioner to a municipal electric plant.
4. The monolith cement plant operated by the county of Los Angeles, situated about seven miles south of Tehachapi, with a connected load of about 2,200 horsepower.
5. The Tropico Mining Company's property in township 9 north, range 13 west, near the Los Angeles County north line, with a connected load of about 200 horsepower.

The foregoing business is now being served by petitioner under temporary permits from the county of Kern. Petitioner testified that there are prospects of additional business in portions of the territory covered by the franchise.

Southern Sierras Power Company is now distributing electric energy in the northeast portion of Kern County, in the vicinity of Randsburg, Inyokern and Johannesburg, in a portion of the territory covered by the franchise secured by petitioner herein. At the hearing, petitioner was granted leave to modify its petition so as to limit the territory to be served by excluding the territory in Kern County east of a line agreed upon by petitioner and Southern Sierras Power Company. The territory to be served by petitioner will be described in the order herein. No one appeared in opposition to the granting of the petition as modified.

I submit the following form of order:

ORDER.

Pacific Light and Power Corporation having applied to the Railroad Commission for a finding that public convenience and necessity require the exercise by Pacific Light and Power Corporation of the rights and privileges granted to said corporation by the county of Kern by

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Ordinance No. 117, adopted on March 8, 1916, and construction by said corporation thereunder, and a public hearing having been held and petitioner having modified its petition as indicated in the opinion herein, the Railroad Commission hereby declares that public convenience and necessity require the exercise by Pacific Light and Power Corporation of the rights and privileges granted to said corporation by the county of Kern by Ordinance No. 117, adopted on March 8, 1916, in the following portion of Kern County:

Beginning at the southwest corner of township 9 north, range 9 west, M. D. B. and M., thence diagonally west of north to the southwest corner of township 27 south, range 36 east, thence due north to the northwest corner of township 25 south, range 36 east; thence west along the boundary line between Tulare County and Kern County to the northwest corner of township 25 south, range 31 east, M. D. B. and M.; thence south to the southwest corner of township 29 south, range 31 east, M. D. B. and M.; thence west to the northwest corner of township 30 south, range 30 east, M. D. B. and M.; thence south to the northwest corner of township 32 south, range 30 east, M. D. B. and M.; thence west to the northwest corner of township 32 south, range 29 east, M. D. B. and M.; thence south to the southwest corner of township 32 south, range 29 east, and its junction with the eighth standard parallel, south M. D. B. and M.; thence west on the eighth standard to the northwest corner of township 12 north, range 19 west, S. B. M.; thence south to the northwest corner of township 10 north, range 19 west, S. B. M.; thence west to the northwest corner of township 10 north, range 20 west, S. B. M.; thence south to the southwest corner of township 9 north, range 20 west, S. B. M.; thence east along the south boundary of Kern County to the point of beginning, excepting therefrom any portion or portions of said territory now within the incorporated limits of any city or town; and construction by petitioner thereunder; provided, that Pacific Light and Power Corporation shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, agreeing that Pacific Light and Power Corporation, its successors and assigns, will never claim before the Railroad Commission or any other public authority any value for the franchise granted by said Ordinance No. 117, in excess of the cost thereof, declared by petitioner to be $317.45, and shall have secured from the Railroad Commission a supplemental order herein declaring that such stipulation, satisfactory to the Railroad Commission, has been filed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 15th day of May, 1916.

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Decision No. 3342.

IN THE MATTER OF THE APPLICATION OF MOUNT WHITNEY POWER AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 2252.

Decided May 19, 1916.

Applicant granted permission to issue $450,000.00 face value of its 6 per cent first mortgage bonds, such bonds to be sold at not less than 96, proceeds to be used for the purpose of purchasing transformers at present owned by consumers, new transformers and for the construction of additional transmission and distributing lines.

Platt Kent, for Applicant.

Report of the Commission.

Thelen, *Commissioner.*

This is an application by Mount Whitney Power and Electric Company for authority to issue $450,000.00 of its first mortgage 6 per cent bonds. The applicant proposes to sell these bonds at 96 per cent of their face value plus accrued interest, and to apply the proceeds toward the following purposes:

Purchase of consumers' transformers	$373,582 03
200 additional transformers at $80.00	16,000 00
New lines to consumers	20,000 00
Main transmission line changes, capital charge	104,875 89
Porterville substation	30,866 00
Sandbox Kaweah No. 3	1,050 00
Miscellaneous additions	17,000 00
Total	$563,374 92

Under the terms of applicant's deed of trust or mortgage it may issue its bonds up to 80 per cent of the cost of additions and betterments when its net earnings during the twelve consecutive months within thirteen months immediately preceding the application for the authentication of the bonds shall have been not less than twice the annual interest charges on the bonds outstanding and the bonds proposed to be issued. The evidence shows that the earnings of applicant have been more than sufficient to enable the company, under the terms of its trust deed or mortgage, to secure from the trustee the bonds for the issue of which authority is herein asked.

The affairs of this corporation were recently reviewed by this Commission in detail in connection with Application No. 1673. See Decision No. 3242, rendered on April 6, 1916, to which decision reference is hereby made.

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In passing upon this application, it may be noted that applicant is promptly taking steps to carry out the provisions of this Commission's order in Decision No. 3242, and that it is making the necessary provision for the new business which is made available to applicant under the recent adjustment of rates.

Applicant's first request was to sell its bonds at 95 per cent of their face value plus accrued interest, but it now believes it can market them at 96, which is the highest figure that these bonds have ever netted to applicant.

I recommend that the application be granted and submit herewith the following form of order:

ORDER.

Mount Whitney Power and Electric Company having applied to the Railroad Commission for an order authorizing the issue of $450,000.00 face value of its first mortgage 6 per cent bonds under its deed of trust or mortgage to Bankers Trust Company of New York, dated October 1, 1909, and a public hearing having been held and the Railroad Commission finding that the purposes for which applicant proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Mount Whitney Power and Electric Company be and said company is hereby granted authority to issue $450,000.00 face value of its first mortgage 6 per cent bonds under its deed of trust or mortgage to Bankers Trust Company of New York, dated October 1, 1909, upon the following conditions and not otherwise:

(1) Mount Whitney Power and Electric Company shall sell the bonds hereby authorized so as to net said company not less than 96 per cent of their face value plus accrued interest thereon.

(2) Mount Whitney Power and Electric Company shall use the proceeds derived from the sale of said bonds for the following purposes, and not otherwise:

Purchase of consumers' transformers	$373,582 03
200 additional transformers at $80.00	16,000 00
New lines to consumers	20,000 00
Main transmission line changes, capital charge	104,875 89
Porterville substation	30,866 00
Sandbox Kaweah No. 3	1,050 00
Miscellaneous additions	17,000 00
Total	$563,374 92

(3) The main transmission line changes to be made from the proceeds of the bonds hereby authorized to be issued shall be such transmission line changes as are outlined by the applicant in a statement filed herein on May 12, 1916, to which statement reference is hereby made.

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(4) Mount Whitney Power and Electric Company shall keep separate, true, and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed by the Public Utilities Act.

(6) The authority herein granted shall apply to such bonds as shall have been issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of May, 1916.

DECISION NO. 3343.

IN THE MATTER OF THE APPLICATION OF FORREST A. PLANT FOR PERMISSION TO RAISE WAREHOUSE RATES.

Application No. 2231.

Decided May 19, 1916.

Applicant, operating a warehouse at Davis, California, authorized to establish the following schedule covering the storage of grain: $1.00 per ton for first season, $.75 per ton for each succeeding season, grain called for by owners $.75 per ton per season, these charges to include all weighing, piling, resacking, etc., and to become effective June 1, 1916.

REPORT OF THE COMMISSION.

This is an application by Forrest A. Plant, conducting a warehouse business at Davis, Yolo County, California, for authority to increase his rates for the storage of grain.

A public hearing was held at Davis May 8, 1916. From the evidence it appears that the warehouse property comprises nine lots of block 5 and ten lots of block 3, range F, of the town of Davis, each lot having a frontage of 50 feet by a depth of 120 feet. Upon this property there are three warehouses as follows:

Wood frame warehouse 75 by 257 feet.

Wood frame warehouse 101 by 150 feet. (This latter warehouse is built in five sections, the fifth section having brick walls on two ends and one side.)

Wood frame warehouse 50 by 106 feet, with corrugated galvanized iron walls.

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All of the warehouses have shingled roofs and 2-inch plank floors. The equipment consists of two scale houses, two 10-ton wagon scales, two portable 1,000-pound scales, two gasoline engines (for hoisting grain), and hand trucks.

This property belongs to applicant and three members of his immediate family from whom he leases the latter's three-quarters interest in the property for $1,200.00 cash per year, in addition to the assumption of taxes, insurance and repairs.

Applicant at present charges for the storage of grain 50 cents per ton per season and makes an additional charge of 20 cents per ton for loading the grain upon cars, making the total charge 70 cents per ton, in addition to which applicant charges the owner for all resacking. He also charges 10 cents per ton for weighing out.

The rates which applicant requested permission to charge are as follows:

For storage per season	75 cents per ton
Extra charge for loading on cars	25 cents per ton

Resacking of grain stored for one season or less to be included in the above rates, but when stored for more than one season resacking to be at owner's expense.

Applicant submitted figures showing that the total earnings of the warehouse business for the last three years were as follows:

1913	$980 00
1914	6,440 00
1915	6,300 00
Total	$13,720 00
Average gross receipts per year	$4,573 33

According to applicant's testimony his expenses for the same period were approximately as follows:

Labor, 1913	$455 00
Labor, 1914	3,040 00
Labor, 1915	3,000 00
Total	$6,495 00
Average labor	$2,165 00
Insurance, average	180 00
Taxes, average	270 00
Repairs, average	200 00
Total	$2,815 00

In the above statement no allowance is made for applicant's services which he testified he considered to be reasonably worth $125.00 per month. Mr. Plant manages the warehouse business, does all the bookkeeping and has no clerical assistance. He apparently renders satisfactory service to all his patrons; but as the warehouse business occupies

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only a portion of his time, and as he is also an attorney at law, a notary public and an insurance agent, he is not entitled to as much as if he were devoting all his time to the business. Under all the circumstances, we feel that $720.00 per year for his services would be a fair allowance.

Applicant estimated the total value of the warehouse property above described at $24,000.00. While we consider this valuation rather high, still we do not think that an interest allowance upon a valuation of $20,000.00 would be excessive. According to applicant's testimony the cost of resacking will consume most of the increase requested, but he feels that in order to avoid unnecessary friction with the purchasers of grain it is for the best interests of all concerned for warehousemen to do all ordinary resacking at their own expense.

With such wide variation of gross receipts as appears between the year 1913 and the years 1914 and 1915, it is difficult to make even an approximate estimate as to what the average gross receipts will be in the future. For example, according to the testimony of applicant, as corroborated by the opinions of several of applicant's customers who were present at the hearing, this year's grain crop in the vicinity of Davis will be very light indeed, applicant estimating that his total receipts for the year will not exceed $700.00. While in our opinion this is an extremely low estimate, there is apparently small question but that applicant's receipts this year will fall below his actual operating expenses, including his own salary but not including interest upon the investment.

On the other hand, we feel that applicant should not be authorized to make an additional charge for the resacking of grain stored for more than one season; and, accordingly, we shall authorize rates which will cover all ordinary resacking irrespective of the length of time the grain is stored. It further appears that applicant makes no loading charge for grain that is called for by the owners in wagons, and the following order is based upon the theory that he contemplates the continuance of this practice.

ORDER.

Forrest A. Plant, engaged in the business of operating a warehouse in Davis, Yolo County, having applied to this Commission for an order authorizing an increase in the rates for the storage and handling of grain, and a public hearing having been held and said application having been submitted and being now ready for decision,

We hereby find as a fact that the existing rates are noncompensatory and unreasonable and that the rates hereinafter authorized are just and reasonable.

Basing our conclusions upon the foregoing findings of fact and upon the further findings of fact contained in the opinion which precedes this order,

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It is hereby ordered that applicant be and he is hereby authorized to establish and collect the following rates:

For the storage of grain, including the loading out upon cars:
$1 00 per ton for the first season.
75 per ton for each succeeding season.
For the storage of grain which is called for and loaded on wagons or trucks by the owners, 75 cents per ton per season; the season in every case to end June 1st.

It is hereby further ordered that the collection of these rates shall be conditioned upon the rendering of first-class service as heretofore given, such as receiving, weighing in, piling, carrying in storage and such other service as it is customary for warehousemen similarly situated to give, and in addition thereto all ordinary resacking, including the furnishing of sacks or otherwise placing the grain in proper condition for shipment.

It is hereby further ordered that the rates herein authorized shall not become effective earlier than June 1, 1916, nor unless applicant shall file the same with this Commission within thirty days from the date of this order.

Dated at San Francisco, California, this 19th day of May, 1916.

DECISION No. 3344.

JOHN J. LENNON ET AL.
vs.
BAYSIDE LUMBER COMPANY.

Case No. 921.

Decided May 19, 1916.

Complainants, owning logging interests tapped by a line of railroad owned by defendant, which line defendant has heretofore ceased to operate, petition the Commission to declare such defendant a common carrier and compel it to resume operations.

Held, The fact that defendant did in the past transport freight for compensation for other shippers is not conclusive that it is at present a common carrier; however, such point need not be determined at present in view of the fact that the evidence shows that the most promising estimates of possible revenues to be derived from hauling which would be offered, should defendant resume operations, would not be sufficient to cover operating expenses and maintenance, not including provisions for depreciation or a return upon the investment; accordingly the Commission could not direct that defendant resume operation of this road. Complaint dismissed.

G. W. Hunter, for Complainants.

Sanborn & Roehl, by *A. B. Roehl*, for Defendant.

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REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

The complaint herein is signed by ten persons who own timber lands or the right to cut timber in what is known as the Jacoby Creek territory in Humboldt County, California. The complaint alleges, in effect, that Bayside Lumber Company is the owner of a lumber mill on Humboldt Bay, and is now and for more than ten years last past has been the owner of a steam railroad extending from tidewater, Humboldt Bay, south of the city of Arcata, in a southeasterly direction up Jacoby Creek, a distance of about six and one-half miles; that along the route of said railroad are a number of property owners and residents who are engaged in farming and dairying, in the lumber industry and in operating a rock quarry; that said railroad crosses the public county road leading from Eureka to Arcata, and also crosses the tracks of Northwestern Pacific Railroad Company, leading from San Francisco Bay to Trinidad, in Humboldt County; that for several years past freight has been transported back and forth between Eureka and the Jacoby Creek region over the line of Northwestern Pacific Railroad Company and the railroad owned by Bayside Lumber Company, over a switch between the tracks of Northwestern Pacific Railroad Company and Bayside Lumber Company; that during several years past Bayside Lumber Company has managed and operated said railroad as a common carrier, carrying shingles, spiling, railroad ties and other freight and products for the public for compensation; that more recently Bayside Lumber Company has refused to carry freight for parties having lumber products along said line of railroad unless such parties should first agree to sell said products to Bayside Lumber Company at a price satisfactory to said company, or to permit said company to handle said products on a commission basis; that on the line of said railroad there is a rock quarry located about five miles from the intersection of the lines of railroad of Northwestern Pacific Railroad Company and Bayside Lumber Company; that a reasonable charge for transporting ties, spiling, shingles and other lumber products over said distance over the railroad of Bayside Lumber Company would be 37½ cents per 1,000 feet, board measure; and that Bayside Lumber Company has heretofore contracted with parties to carry forest products over its line of railroad over said distance at said rate, and has been paid said rate for such transportation. The complaint prays that the Railroad Commission direct Bayside Lumber Company to transport forest products over said company's line of railroad for said distance of five miles at a rate of 37½ cents per 1,000 feet, board measure.

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The answer denies most of the material allegations of the complaint. The answer denies specifically that defendant has operated its line of railroad as a common carrier, and alleges that said railroad has been operated solely as an adjunct of defendant's lumbering operations. The answer admits that defendant has transported some freight for the general public as an accommodation, but alleges that such transportation was conducted with the distinct understanding that the service was rendered merely as an accommodation and was subordinate to the business of the defendant. Defendant denies that it is a common carrier subject to the jurisdiction of the Railroad Commission.

Public hearings on this complaint were held in Eureka on March 16 and 17, 1916, and in San Francisco on March 28, 1916.

Bayside Lumber Company was incorporated under the laws of California on January 6, 1905. The company was granted power, among others, to deal in lumber and lumber products, and "to buy, build, construct, own, sell, lease, let, equip, maintain and operate in connection with and in carrying on, said business of said corporation, railroads, vessels of all kinds, tram roads, skid roads, cable roads, 'V' flumes, water ditches and conduits, and to equip, maintain and operate said means of transportation by steam, electricity or other power." In 1905 defendant acquired from Bayside Mill and Lumber Company timber lands, a sawmill in Eureka and the railroad referred to in the complaint herein. Defendant's manager testified that the railroad was bought as an adjunct to defendant's timber business for the purpose of transporting logs and shingle bolts for defendant. Defendant's logs were transported over this railroad from the Jacoby Creek country to Humboldt Bay, where the logs were thrown into the bay. The logs were then towed a distance of about five miles to defendant's lumber mill in Eureka.

Subordinate to this primary use, defendant also transported over this railroad certain spiling, ties, shingles, shingle bolts and other forest products for persons owning lands on Jacoby Creek or the right to cut timber on such lands. Defendant also transported groceries, hay and certain other commodities up Jacoby Creek to persons engaged in lumbering operations or in quarrying along said creek. For these services defendant charged and received compensation. The testimony shows that defendant never carried passengers for compensation. The freight which defendant transported was carried only after written or verbal arrangements had been made by the shipper with defendant, and in all cases in subordination to defendant's prior right to operate its railroad for its own business. The testimony shows that defendant never refused to transport freight for any person owning or operating on Jacoby Creek. Under contract dated November 18, 1911, defendant

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carried a considerable amount of rock for Hammon Engineering Company from a quarry located on Jacoby Creek, this rock being used on the government jetty in Humboldt Bay.

Defendant's logging operations on Jacoby Creek ceased in 1913. During 1914, defendant transported rock, forest products and certain merchandise for shippers located on Jacoby Creek, all for compensation under the written or verbal arrangements hereinbefore referred to, and in part, defendant transported forest products which it purchased from persons operating in the Jacoby Creek territory. On December 12, 1914, defendant entered into a contract with Pacific Engineering and Construction Company, which company had secured the contract for supplying additional rock in the construction of "jetties and other harbor improvements" in Humboldt Bay. This rock was secured from the quarry on Jacoby Creek. Under this agreement, Bayside Lumber Company leased its line of railroad to Pacific Engineering and Construction Company, retaining, however, the right to operate its own trains or cars under control of the train dispatcher of Pacific Engineering and Construction Company. Pacific Engineering and Construction Company agreed to maintain the railroad tracks, road, equipment and appliances and to save Bayside Lumber Company harmless from all damages. The term of the contract was five years. During 1915, Bayside Lumber Company occasionally ran some of its own trains, but during the year the company gave notice to all persons operating on Jacoby Creek that the company would no longer run trains after the year 1915. In other words, after 1915, the sole operations over defendant's line of railroad were to be carried on by Pacific Engineering and Construction Company, engaged in the business of transporting rock from a quarry or quarries on Jacoby Creek for use in improvements in Humboldt Bay. Pacific Engineering and Construction Company has never transported passengers, nor has it ever transported freight for any party other than itself.

This statement of facts is, I believe, sufficient for a discussion of the two principal issues in this case. These issues are:

(1) Is defendant a common carrier?

(2) If so, should the Railroad Commission direct defendant to transport lumber and other forest products for complainants?

On the first issue, defendant contends, at the outset, that, having leased its line of railroad and a considerable portion of its equipment to Pacific Engineering and Construction Company, defendant is no longer in a position to operate its railroad as a common carrier, if defendant ever was such common carrier. In my opinion, this position is without merit. If defendant was a common carrier, it could not legally escape its obligations to the public by the simple expedient of leasing its line of railroad and part of its equipment. Furthermore, defendant, if it

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was a common carrier, could not cease operations as such carrier unless the Railroad Commission's consent had first been secured. No application for such consent was ever made by defendant.

On the question whether defendant was a common carrier at the time it leased its railroad to Pacific Engineering and Construction Company, complainants draw attention to the fact that for a number of years, including two years subsequent to the cessation of defendant's own logging operations on Jacoby Creek, defendant transported lumber and other forest products and rock from Jacoby Creek, and merchandise of various kinds to operators on Jacoby Creek, for compensation. Complainants further draw attention to the fact that although these operations were subordinate to defendant's own business, defendant, as hereinbefore pointed out, never refused to carry freight for outside parties, up to the end of 1915. Complainants also rely on a document headed "Bayside Lumber Company's Logging Railroad—Freight Tariff," which was handed by defendant to one of this Commission's rate experts and filed on August 29, 1913. This tariff stated rates for the transportation of rock, shingles and bolts in carload lots, the cars to be furnished by the shipper, with the exception of shingles for shipment to the wharf on Humboldt Bay.

Defendant, on the other hand, insists that it has never been a common carrier. Defendant claims that it is a "logging railroad," as distinguished from a "commercial railroad," and that, consequently, it has never been a common carrier subject to supervision and regulation by public authority. Defendant relies on its written and verbal arrangements with intending shippers as showing that its transportation for outside parties was always rendered as an accommodation and not in accordance with any holding out to the general public. Defendant claims that the "freight tariff" hereinbefore referred to was not filed voluntarily but as the result of insistence from this Commission that defendant's rates be filed. Defendant also draws attention to the fact that it has never been taxed as a common carrier, that it has never exercised the power of eminent domain, that it has received no division of general rates from Northwestern Pacific Railroad Company, that it has had no per diem arrangement for the interchange of cars, as is ordinarily the case between common carriers, that it was charged for demurrage by Northwestern Pacific Railroad Company in the same manner in which industries and shippers are charged, and that it never maintained a regular train service.

The question whether defendant operated as a common carrier is not free from difficulty. Nor does the answer to that question solve the problem here presented. If we assume, for the sake of the argument, that defendant is a common carrier, we are immediately confronted with the question whether, on the facts here presented, the Railroad

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Commission can consistently order defendant to resume operations and to handle the business reasonably to be anticipated from the complainants herein. In this connection, defendant asked that if it be declared a common carrier, it be authorized to discontinue operations on the ground that the business to be secured would not pay even operating expenses. In this connection, defendant presented exhibits to show the result of the operations of its railroad from 1912 to 1915, inclusive. These exhibits show a deficit of $16,331.64 in 1912; a net earning of $8.02 in 1913; a deficit of $762.46 in 1914 and a deficit of $386.85 in 1915. In these statements, operating and maintenance expenses only are considered and no allowance is made for depreciation or for return on the investment.

The complainants herein presented testimony to show the amount of freight which they would offer to the defendant if it operated its line of railroad during 1916. Defendant, accepting these statements at their full face value, presented its Exhibit No. 17, showing monthly income based on complainants' estimate of traffic and minimum monthly expenses for operation. This exhibit reads as follows:

Revised Exhibit Showing Monthly Income Based on Complainants' Estimate of Traffic and Minimum Monthly Expenses for Operation.

Income based on complainants' estimate of traffic likely to move if road is made a common carrier		$1,117 50
Revised expenses covering the minimum cost per month of operation with the one locomotive available:		
Engineer	$110 00	
Fireman	67 50	
Conductor	81 00	
Brakeman	70 20	
Superintendent (partial salary)	50 00	
Watchman and hostler	67 50	
Clerk hire—stationery—postage—trips by manager, etc.	50 00	
Fuel oil—10 bbls. per day of 10 hours each for 12 days, 120 at 89 cents	106 80	
Upkeep—road and cars—5 men at $55.00	275 00	
Supplies per month	40 00	
Taxes at 5 per cent on gross earnings of $1,117.50	56 00	
Watchman at trestle terminal	10 00	
		$984 00

If to these expenditures be added the amounts which would be required to repair the locomotive and cars necessary to handle this business, the result would be as follows:

New crown-sheet for locomotive Number 1—$600.00—spread over 12 months	$50 00
Repairs to locomotive Number 1—$500.00—spread over 12 months	41 50
Repairs to 15 cars at $25.00—$375.00—spread over 12 months	31 25
Repairs to wharf terminal—$500.00—spread over 12 months	41 50
Total monthly minimum expense	$1,148 25
Deficit	$31 75

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The monthly income of $1,117.50 shown in the foregoing statement is based on complainants' own estimate of traffic to be offered by them, as follows:

J. J. Lennon	450,000 board feet of forest products
Robert L. Haughey	300 cords shingle bolts
H. S. Thompson	300 cords shingle bolts and 3,000,000 shingles
M. Johnson	3,000,000 shingles

The testimony shows that in 1915, 10,120 railroad ties were made on the lands of Lennon and transported over defendant's railroad. Mr. Lennon was not able to state how the 450,000 board feet of forest products would be divided as between ties and shingle bolts, but expressed confidence in his ability to secure a contract for 100,000 railroad ties from Northwestern Pacific Railroad Company. Mr. Haughey owns a shingle mill on Humboldt Bay. In 1910 he took up with defendant the matter of transporting shingle bolts and logs from his land on Jacoby Creek over defendant's line of railroad. Defendant quoted a rate for this service on the basis of the cars being furnished by Mr. Haughey. Defendant stated that this transportation would be done in connection with defendant's own work, but that defendant was certain that it would have considerable time which would not be required for handling its own logs. Defendant stated that it would be glad to hear from Mr. Haughey soon with reference to his decision. Mr. Haughey testified that he had not gone further into the matter for the reason that he understood defendant's offer to be that "it might transport" his products and not that "it would do so." Mr. Thompson owns a shingle mill on Jacoby Creek, which mill he has operated for a number of years. He testified that the capacity of his mill was about three million shingles per month; that he had shipped during some months 300 cords of shingle bolts, during other months 200, and during other months none at all; and that he would ship "pretty close to three million shingles per month." Mr. Johnson owns two shingle mills near the lower portion of Jacoby Creek, which shingle mills have a capacity of about one and one-half million shingles each per month. Mr. Johnson has been shipping between one million and one million and a half shingles per month, which shingles have largely been transported by wagon. Mr. Johnson does not need the services of defendant's railroad, although he would prefer such service if the rates are not too high.

The revenue derived by defendant for the transportation of all freight except rock, and defendant's own logs, was $606.59 in 1908; $822.97 in 1909; $3,843.74 in 1910; $2,012.82 in 1911; $4,914.17 in 1912; $3,412.32 in 1913; $3,090.11 in 1914; and $1,761.79 in 1915.

The expenses shown in defendant's Exhibit No. 17 do not include allowances for liability or other insurance, any proportions of the

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salaries of general officers, any allowance for depreciation or any return on the investment. Defendant reports that its investment as of January 1, 1915, was $128,605.97.

The only conclusion which I can draw from this evidence is that if this Commission should direct defendant to resume the operation of its line of railroad as a common carrier, assuming that it has been a common carrier, the revenue which could reasonably be anticipated would be far less than the bare cost of operating and maintaining defendant's line of railroad, with no allowances for certain items of operation or for depreciation or for return on the investment. Under these circumstances, and under the facts as shown by the record herein, I can not recommend that this Commission order defendant to operate as a common carrier.

In response to a question from the presiding Commissioner, defendant's manager testified that he would be entirely willing to agree that Pacific Engineering and Construction Company should transport the products of the complainants herein, provided that defendant received a rental for the use of its line of railroad for these purposes on the same basis on which Pacific Engineering and Construction Company is now paying rental. He also stated that he would be entirely willing to confer with the officers of Pacific Engineering and Construction Company to see whether they would be willing to transport the products of complainants herein, on receiving assurance from the Railroad Commission that Pacific Engineering and Construction Company would not be treated by the Railroad Commission as a common carrier. In accordance with this promise, a conference was held subsequent to the submission of this case between Mr. R. O. Wilson, defendant's manager, Mr. S. L. G. Knox, president of Pacific Engineering and Construction Company, and the presiding Commissioner herein, for the purpose of ascertaining the attitude of Pacific Engineering and Construction Company. Mr. Knox stated that he could not see his way clear, because of legal and practical difficulties, to undertake such service.

Mr. Wilson testified that at the expiration of the operations of Pacific Engineering and Construction Company at the quarries on Jacoby Creek, he would be entirely willing to lease defendant's line of railroad to the complainants herein on such terms as might be deemed fair.

While regretting that no way has been found by which the complainants herein can be served, I am satisfied that this Commission could not, either legally or in good conscience, direct defendant to operate its railroad as a common carrier under the facts shown in the evidence herein. It is unfortunate, from the point of view of complainants, that they did not develop their lands during the years in

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which defendant was transporting forest products from Jacoby Creek, and that they have waited until after defendant has completed its own logging operations and no longer has an incentive to continue the operation of its line of railroad.

I submit the following form of order:

ORDER.

The above entitled proceeding having been submitted and being now ready for decision, and the Railroad Commission being fully advised,

It is hereby ordered that said proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of May, 1916.

DECISION No. 3345.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY FOR PERMISSION TO RENEW TWO NOTES.

Application No. 2250.

Decided May 19, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the proceeding entitled as above having, on May 17, 1916, made written request that this proceeding be dismissed,

It is hereby ordered that Application No. 2250 be and the same is hereby dismissed.

Dated at San Francisco, California, this 19th day of May, 1916.

DECISION No. 3346.

IN THE MATTER OF THE APPLICATION OF LAWNDALE LAND AND WATER COMPANY FOR AUTHORITY TO PURCHASE THE WATER SYSTEM OF LAWNDALE WATER COMPANY, TO ISSUE STOCK, TO EXECUTE A MORTGAGE UPON ITS PROPERTY, TO ISSUE BONDS AND CHANGE ITS RATES FROM A FLAT BASIS TO A METER BASIS; AND OF LAWNDALE WATER COMPANY TO SELL ITS WATER SYSTEM.

Applications Nos. 370, 426.

Decided May 19, 1916.

Applicant, heretofore authorized to issue bonds which it was unable to sell advantageously, secured advances from its stockholders amounting to $12,596.48.

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It now applies, and is granted permission, to issue $15,000.00 face value of such bonds, to be sold at not less than 85, for the purpose of repaying stockholders the moneys advanced, or to issue such bonds directed to stockholders, for such purpose, at not less than 85 per cent of their face.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas this Commission in Decision No. 660, dated May 9, 1913, (Vol. 2, Opinions and Orders of the Railroad Commission of California, page 886), authorized Lawndale Land and Water Company to mortgage its property to Los Angeles Title and Trust Company and to issue $25,000.00 of bonds under said mortgage at not less than 90 per cent of their par value for the following purposes: (*a*) Meters and installation, $2,500.00; (*b*) pipes, installation thereof, connections, etc., and extending applicant's system, $22,500.00. Total, $25,000.00; and

Whereas this Commission in certain orders issued supplemental to said Decision No. 660 authorized said Lawndale Land and Water Company to sell its bonds at not less than 85 per cent of their par value and accrued interest, and to execute a mortgage to Los Angeles Trust and Savings Bank, dated July 1, 1914, in lieu of the mortgage heretofore approved by the Commission; and

Whereas said Lawndale Land and Water Company has now represented to this Commission that because of its inability to sell any of said bonds it was compelled to borrow the sum of $12,596.48 from its stockholders in order to make the necessary extensions and additions to its plant and system; and

Whereas said Lawndale Land and Water Company has now applied to this Commission for authority to sell a sufficient amount of said bonds at 85 per cent of their par value and accrued interest to net $12,596.48 and to use said sum in repaying its stockholders for moneys borrowed and used for additions and betterments or in lieu of selling said bonds to issue said bonds direct to the order of its stockholders at the ratio of $1,000.00 of bonds for each $850.00 borrowed;

And it appearing to this Commission that the request of said Lawndale Land and Water Company is reasonable and should be granted, and that the purposes for which it is proposed to issue said bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that Lawndale Land and Water Company be and it is hereby authorized to issue and sell $15,000.00 face value of the bonds authorized by this Commission's Decision No. 660, dated May 9, 1913, at not less than 85 per cent of their face value and accrued interest, and to use the proceeds in repaying its stockholders for moneys advanced and used for extensions and additions and betterments to applicant's plant and system in accordance with an exhibit filed in connection with this supplemental application and marked Exhibit "A."

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In lieu of the above authority Lawndale Land and Water Company may issue all or any part of said $15,000.00 of said bonds direct to its stockholders at not less than 85 per cent of their face value and accrued interest in repayment of moneys advanced for extensions and additions and betterments in accordance with said Exhibit "A."

The authority herein granted is granted upon the following conditions and not otherwise:

(1) Lawndale Land and Water Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(2) This order is subject to all the conditions contained in Decision No. 660, dated May 9, 1913, and such orders as have been issued supplemental thereto in so far as the same are not in conflict with the order herein.

(3) The authority herein granted Lawndale Land and Water Company to issue bonds shall apply only to such bonds as shall have been issued on or before December 31, 1916.

Dated at San Francisco, California, this 19th day of May, 1916.

Decision No. 3347, grade crossing; not printed. See end of volume.

DECISION No. 3348.

IN THE MATTER OF THE APPLICATION OF BISHOP LIGHT AND POWER COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE A FIRST MORTGAGE COVERING ITS PROPERTIES IN THE STATE OF CALIFORNIA, AND ALSO FOR AN ORDER AUTHORIZING THE ISSUE, USE AND SALE OF FIRST MORTGAGE BONDS.

Application No. 1987.

Decided May 19, 1916.

Applicant authorized to execute a mortgage covering its property, and to issue $4,500.00 face value of its 6 per cent first mortgage bonds, to be sold at not less than 90, proceeds to be used to reimburse treasury for capital expenditures made from income.

Isaac B. Potter and *Olin Wellborn, Jr.*, for Applicant.

REPORT OF THE COMMISSION.

This is an application of Bishop Light and Power Company, operating in the city of Bishop, Inyo County, for authority to execute a first mortgage upon its properties and to issue bonds thereunder.

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By amendment to the original petition authority is asked at the present time to issue four thousand five hundred ($4,500.00) dollars face value of bonds at not less than 90 per cent of their face value and accrued interest, in order to reimburse the company for moneys expended from income for additions and betterments.

Bishop Light and Power Company was incorporated on April 23, 1902, under the laws of the State of California, for a term of fifty years, "to furnish electricity for lighting and power purposes; to construct and operate telephone lines; to construct, own and operate pumping plants and furnish water systems for cities and towns."

Applicant has a total authorized capital stock issue of 200 shares of stock of the par value of $100.00 per share, of which 156 shares are now outstanding. All of this stock, except qualifying shares for directors, is held by The Nevada-California Electric Corporation, a holding company controlled by the same interests as applicant. In 1914 and 1915 dividends of 10 per cent were declared upon the outstanding capital stock. The company has no preferred stock and no bonds authorized or outstanding, and states that its property is unencumbered. It further states that it has no notes outstanding, and that its only indebtedness consists of the current liabilities shown by its balance sheet for October 31, 1915, given below:

Liabilities.

Capital stock	$15,600 00
Current liabilities.	
Taxes accrued	300 81
Vouchers payable	742 44
Customers' deposits	10 00
Surplus.	
Surplus January 1, 1915	26,014 61
Surplus this year to date	1,851 32
Dividends paid July, 1915	*1,560 00
Total not surplus	$26,305 93
Reserves.	
Reserve for depreciation	3,274 89
Reserve for damages and personal injuries	1,015 00
Total	$47,249 07

Assets.

Property.	
Property and equipment, January 1, 1913	$32,735 18
Additions since December 31, 1912	2,075 31
Stocks and bonds	1 00
Cash on hand and in banks	1,345 37
Accounts receivable.	
Light and power customers	2,657 45
Merchandise customers	1,003 03

*Deduction.

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From associated companies: On open ledger account.	
The Nevada-California Power Company	4,243 30
The Southern Sierras Power Company	179 95
Interstate Telegraph Company	1 23
Material, supplies, etc.	
Material and supplies	2,974 11
Prepaid rents	6 67
Prepaid insurance	26 47
	$47,249 07

Following is a comparative statement showing applicant's income accounts for the years ending December 31, 1912, 1913, 1914 and 1915:

	1912	1913	1914	1915
Operating revenues	$12,539 40	$14,597 39	$14,605 51	$14,103 08
Operating expenses	8,481 49	11,531 13	11,248 21	11,985 92
Net operating revenues	$4,057 91	$3,066 26	$3,357 30	$2,117 16
Miscellaneous nonoperating revenues	905 30	----------	24 90	168 06
Gross corporate income	$4,963 21	$3,066 26	$3,382 20	$2,285 22
Deductions from income	1,770 65	11 55	60 60	111 10
Net income	$3,192 56	$3,054 71	$3,321 60	$2,174 12
Balance for year to profit and loss	$3,192 56	$3,054 71	$3,321 60	$2,174 12

*Deduction.

Applicant's surplus account as shown by its Annual Report to the Commission for the year ending December 31, 1915, is as follows:

Balance December 31, 1914	$26,014 61	
Profit for year from income account	2,174 12	
Total		$28,188 73
Dividends on outstanding stock	$1,560 00	
Other deductions	1 00	
Total deductions		1,561 00
Balance December 31, 1915		$26,627 73

Bishop Light and Power Company is the only company serving with electricity the city of Bishop, a town of approximately 1,300 inhabitants. During the past three years the number of its consumers has increased as follows:

December 31, 1913	334
December 31, 1914	360
December 31, 1915	389

Applicant is operating under a franchise granted on July 16, 1902, by the board of supervisors of Inyo County. This franchise is for a term of fifty years and gives the company the right to erect poles and

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wires for transmitting electric light, power and heat, and to erect telephone poles and wires for the transmitting of telephone messages upon the public highways of the First Township, comprising Road Districts Numbers 1 and 2, of the county of Inyo. The territory covered by this franchise includes the present city of Bishop and certain adjacent territory. The actual cost of the franchise to the corporation was the sum of fifty ($50.00) dollars.

As heretofore stated, applicant requests authority to execute a first mortgage upon its properties and to issue bonds thereunder. Applicant has filed for the Commission's approval a copy of its proposed deed of trust to Los Angeles Trust and Savings Bank of Los Angeles and The International Trust Company of Denver, trustees. In brief the terms of this indenture are as follows:

Bonds to be issued thereunder are to be in series. The first bonds to be issued are to be known as Series "A" bonds, otherwise designated as Bishop Light and Power Company's first mortgage 6 per cent gold bonds. They are to be dated July 1, 1915, and mature July 1, 1965. Series "A" bonds are limited to an issue of $1,000,000.00, with interest at 6 per cent per annum. Subsequent issues are to bear interest at not to exceed 6 per cent per annum. Bonds are callable at 103 and accrued interest upon sixty days notice. A redemption fund payable semi-annually in an amount equal to three-fourths of 1 per cent of the aggregate par value of all bonds outstanding is provided for, beginning with the year 1920. In general, 30 per cent of the bondholders may institute proceedings and a majority may direct such proceedings. Bonds will be guaranteed by the Southern Sierras Power Company both as to principal and interest. Applicant states that the reason for issuing bonds in its own name and having the same guaranteed by the Southern Sierras Power Company rather than having its properties financed directly by the Southern Sierras Power Company, is its desire to keep its bond issue separate in case it should desire or be required to sell its properties to the municipality of Bishop. Applicant has asked for authority to sell its bonds at 90 per cent of their face value. At this figure the net interest charge to be paid by Bishop Light and Power Company over a term of fifty years will amount to approximately six and three-fourths (6¾) per cent.

A valuation of applicant's physical properties made by the Commission's engineers as of December 31, 1915, is as follows:

Reproduction cost (historical)	$34,938 61
Present value	27,932 22

These figures do not include stores and supplies and cash and deposits amounting to $4,319.48, nor has any allowance been made for intangibles.

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In support of its application, Bishop Light and Power Company has submitted an appraisal made by Mr. Halbert P. Gillette, of New York, showing a present value as of December 31, 1914, of $40,722.00. Mr. Gillette's appraisal includes fixed capital, stores and supplies, cash and deposits, unamortized discount on securities and expense (brokerage fees) and development costs. To the total as shown by Mr. Gillette, applicant adds $893.00 for property additions from January 1, 1915, to October 31, 1915, from which it arrives at a total present value for its properties as of October 31, 1915, of $41,615.00.

As the Commission's engineers and Mr. Gillette are in close accord as to the value of the physical properties, and as applicant is now asking to issue only $4,500.00 of bonds, it does not seem necessary for the Commission at this time to pass finally upon the intangible values which applicant has assigned to its properties.

After a consideration of the evidence submitted by applicant, we are of the opinion that its application is proper and should be granted, subject, however, to the terms of the following order.

ORDER.

Bishop Light and Power Company having applied to this Commission for authority to execute a mortgage upon its properties, and to issue bonds thereunder, as set forth in the opinion which precedes this order, and a public hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue said bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered as follows:

1. Bishop Light and Power Company, a corporation, is hereby authorized to execute a mortgage or deed of trust upon its properties, providing the terms and conditions upon which first mortgage bonds are to be issued and the rights and securities of the holders thereof.

2. Bishop Light and Power Company, a corporation, is hereby authorized to issue and sell four thousand five hundred ($4,500.00) dollars face value of principal of first mortgage bonds of said company, or so much thereof as may be necessary, for the purposes hereinafter stated, upon the following conditions and not otherwise, to wit:

(*a*) Bishop Light and Power Company, a corporation, shall sell said bonds herein authorized to be issued so as to net the said company not less than ninety (90) per cent of the face value of the principal thereof besides interest accrued thereon.

(*b*) Before issuing any of the bonds herein authorized to be issued, applicant shall submit to this Commission its proposed mortgage or deed

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of trust securing said bond issue and shall obtain a supplemental order approving the same.

(*c*) The proceeds from the bonds herein authorized to be issued shall be used by applicant for the sole purpose of reimbursing its treasury for the following expenditures made from income, or from other moneys in its treasury not secured or obtained from the issue of stock or stock certificates or bonds, notes or other evidences of indebtedness within five (5) years prior to the first day of November, 1915:

Distributing lines	$1,402 28
Distributing equipment	713 58
Meters	817 16
Substation buildings and equipment	10 90
Office furniture and fixtures	67 25
Service street lights	244 65
Transformer on West Bishop line	214 34
Meters for flat rate customers	53 42
Short Service Connection last quarter of 1913	17 83
Short Service Connection first quarter of 1914	67 38
Short Service Connection second quarter of 1914	13 57
Short Service Connection third quarter of 1914	186 53
Short Service Connection fourth quarter of 1914	103 70
Short Service Connection first quarter of 1915	119 13
Short Service Connection second quarter of 1915	301 78
Reconstruction Collins line	2 22
Miscellaneous expense	121 32
Total	$4,457 04

(*d*) Bishop Light and Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(*e*) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act.

(*f*) The authority herein granted shall apply only to such mortgage as shall have been executed and such bonds as shall have been issued on or before March 31, 1917.

Dated at San Francisco, California, this 19th day of May, 1916.

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DECISION No. 3349.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF A RIGHT GRANTED TO APPLICANT UNDER A FRANCHISE.

Application No. 2075.

Decided May 19, 1916.

REPORT OF THE COMMISSION.

ORDER ON PETITION OF W. F. BOARDMAN AND CHARLES F. LEEGE, INTERVENERS, FOR REHEARING.

W. F. Boardman and Charles F. Leege, interveners in the above entitled proceeding, having filed herein a petition for rehearing in connection with the Railroad Commission's Decision No. 3293, rendered on April 28, 1916, in the above entitled proceeding, and careful consideration having been given to said petition, and the Railroad Commission finding that no good reason appears why a rehearing should be held,

It is hereby ordered that said petition of W. F. Boardman and Charles F. Leege, interveners, for a rehearing herein be and the same is hereby denied.

Dated at San Francisco, California, this 20th day of May, 1916.

DECISION No. 3350.

IN THE MATTER OF THE APPLICATION OF VALLEY NATURAL GAS COMPANY FOR AN ORDER AUTHORIZING IT TO EXECUTE A DEED OF TRUST TO ANGLO-CALIFORNIA TRUST COMPANY TO SECURE A BONDED INDEBTEDNESS IN THE SUM OF TWO MILLION DOLLARS, TO ISSUE THREE HUNDRED SEVENTY-EIGHT THOUSAND DOLLARS FACE VALUE OF BONDS, TO ISSUE TWO THOUSAND SHARES OF PREFERRED STOCK, TO ISSUE ONE THOUSAND SHARES OF COMMON STOCK, TO ISSUE A PROMISSORY NOTE FOR TWO HUNDRED FIFTY THOUSAND DOLLARS AND TO PLEDGE SECURITIES TO SECURE THE PAYMENT OF SAID PROMISSORY NOTE.

Application No. 2172.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA NATURAL GAS COMPANY AND VALLEY NATURAL GAS COMPANY FOR AN ORDER AUTHORIZING CALIFORNIA NATURAL GAS COMPANY TO SELL TO VALLEY NATURAL GAS COMPANY ALL AND SINGULAR ITS PROPERTY AND ASSETS, AND OF VALLEY NATURAL GAS COMPANY TO PURCHASE THE SAME.

Application No. 2173.

Decided May 19, 1916.

These applications contemplate the transfer of the properties of California Natural Gas Company, consisting of gas distributing and transmission lines in Kern County, to the Valley Natural Gas Company, the issuance by the latter company

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of $378,000.00 face value of first mortgage bonds, 2,000 shares of 8 per cent preferred stock and 1,000 shares of common stock, and the execution of a mortgage securing such bonds. Of the bonds, $100,000.00 face value are to be sold at not less than 92½; $250,000.00 to be sold at not less than 90, or $278,000.00 face value, to be pledged to secure a one-year promissory note in the sum of $247,500.00. Preferred stock, 55 shares for organization expenses, 1,945 shares to be sold at 90. The 1,000 shares of common stock, together with $490,000.00 in cash realized from the sale of bonds and preferred stock, to be given in exchange for the properties transferred.

Authorization to transfer properties under the above conditions granted; provided, stipulations are filed by the Valley Natural Gas Company to the effect (1) that should any franchise be transferred in connection with the properties herein, no value shall ever be claimed therefor other than the actual cost thereof; (2) that the transfer herein authorized shall not be used directly or indirectly as a reason for increasing rates.

Lilienthal, McKinstry & Raymond, by *Joseph Haber, Jr.,* for Valley Natural Gas Company.

Pillsbury, Madison & Sutro, by *H. D. Pillsbury,* for California Natural Gas Company.

REPORT OF THE COMMISSION.

THIELEN, *Commissioner.*

By consent of all parties, given at the public hearing held herein in San Francisco on April 24, 1916, the above entitled proceedings were consolidated for hearing and decision.

In Application No. 2173, California Natural Gas Company asks authority to sell its entire property, used in the natural gas business in Kern County, to Valley Natural Gas Company for $490,000.00 in cash and $100,000.00 par value of common stock of Valley Natural Gas Company.

In Application No. 2172, as amended, Valley Natural Gas Company asks authority to execute a mortgage or deed of trust securing the payment of $2,000,000.00 face value of 6 per cent serial first mortgage bonds; to issue $378,000.00 face value of said bonds; to issue $200,000.00 par value of preferred stock; to issue $100,000.00 par value of common stock and to issue its promissory note for $247,500.00 to the Anglo-California Trust Company of San Francisco for $247,500.00, to be borrowed from said Trust Company.

Valley Natural Gas Company desires to issue at this time, $100,000.00 face value, of bonds, numbered 1 to 100, inclusive, to be sold at not less than 92½ per cent of face value plus accrued interest, and $278,000.00 face value of bonds, numbered 101 to 378, both inclusive, to secure in part the promissory note for $247,500.00 to be issued to Anglo-California

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Trust Company. Valley Natural Gas Company asks authority to sell, at not less than 90 per cent of their face value plus accrued interest, bonds of the face value of $250,000.00, being bonds numbered 101 to 350, both inclusive, being a portion of said bonds of the face value of $278,000.00, and to use the proceeds obtained from such sale to pay in part the aforementioned loan from the Anglo-California Trust Company.

Of the preferred stock which Valley Natural Gas Company proposes to issue, $5,500.00 par value is to be issued to C. B. Colby at 90.91 per share, to reimburse said C. B. Colby for $5,000.00 paid by him to California Natural Gas Company as part payment for said company's property; $161,200.00 par value of preferred stock is to be sold at not less than $90.00 per share, to pay in part the purchase price of the properties to be acquired from California Natural Gas Company; and $33,300.00 par value of preferred stock is to be sold at not less than $90.00 per share, to pay in part the aforementioned loan from Anglo-California Trust Company.

The $100,000.00 par value of common stock is to be issued to California Natural Gas Company as part payment of the purchase price of the property to be acquired by Valley Natural Gas Company from California Natural Gas Company. C. B. Colby testified that he has agreed, verbally, to purchase from California Natural Gas Company said $100,000.00 par value of common capital stock at $80.00 per share. Said $100,000.00 par value of common stock is to be pledged by California Natural Gas Company as part security for the $247,500.00 loan. In the event that C. B. Colby acquires this stock, he is to permit it to remain in pledge until the loan has been repaid. It is the intention of the Valley Natural Gas Company to pay the $247,500.00 note within one year after date through the issue of preferred stock and bonds as hereinbefore indicated. Assuming that the loan will be repaid within a year, Valley Natural Gas Company, according to these applications, will have issued for property of California Natural Gas Company $100,000.00 par value of common stock, approximately $200,000.00 par value of 8 per cent preferred stock, and $350,000.00 face value of 6 per cent bonds. Reference will hereinafter be made to the value of the property which Valley Natural Gas Company proposes to acquire, and to its earning power.

California Natural Gas Company was incorporated in 1910 for the purpose of distributing and selling natural gas produced by the Standard Oil Company in the Midway oil field and vicinity. The company sells gas at wholesale to the Bakersfield Gas and Electric Company, controlled by San Joaquin Light and Power Corporation, for

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distribution in Bakersfield; to the Westside Gas Company for distribution in Taft and Maricopa, and to Joseph McDonald for distribution in Fellows. Less than 20 per cent of the operating revenues of California Natural Gas Company, however, are obtained from the sale of gas to other public utilities. More than 80 per cent of the earnings of the company are obtained from the sale of natural gas to oil operators.

The following table shows operating revenues and expenses of California Natural Gas Company for the years 1910, 1911, 1912, 1913, 1914, and 1915, as reported by California Natural Gas Company:

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TABLE No. I.

Operating Revenues and Expenses, California Natural Gas Company, 1910–1915, Inclusive.

Item	1910	1911	1912	1913	1914	1915
Operating revenues		$141,500 95	$441,927 98	$411,885 46	$315,121 12	$236,707 39
Operating expenses†	$5,244 61	36,913 40	253,030 76	308,723 22	249,731 67	209,833 97
Net operating revenue	*$5,244 61	$104,587 55	$188,897 22	$103,162 24	$65,389 45	$26,873 42
Nonoperating revenue—						
Miscellaneous interest revenues		$295 00	$3,130 68	$1,452 27	$5,363 38	$2,321 62
Dividend revenues				3,944 24		
Miscellaneous operating revenues					51 23	
Totals		$295 00	$3,130 68	$5,396 51	$5,414 61	$2,321 62
Gross corporate income	*$5,244 61	$104,882 55	$192,027 90	$108,558 75	$70,804 06	$29,195 04
Balance carried to profit and loss account	*$5,244 61	$104,882 55	$192,027 90	$108,558 75	$70,804 06	$29,195 04
Profit and loss account—						
Surplus beginning of year		*$5,244 61	$71,637 94	$123,665 84	$232,224 59	$39,292 82
Profits from income account		104,882 55	192,027 90	108,558 75	70,804 06	29,195 04
Total before deductions		$99,637 94	$263,665 84	$232,224 59	$303,028 65	$68,487 86
Deductions—						
Loss from income account	*$5,244 61					
Dividends		$28,000 00	$140,000 00		$262,500 00	
Depreciation not covered by reserve					1,235 83	$587 90
Total deductions	*$5,244 61	$28,000 00	$140,000 00		$263,735 83	$587 90
Surplus at close of year	*$5,244 61	$71,637 94	$123,665 84	$232,224 59	$39,292 82	$67,899 96

*Loss.

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†Operating expenses include taxes and depreciation as follows:

	Taxes	Depreciation
1910		
1911	$10,683 47	
1912	18,868 91	
1913	22,473 63	$20,455 76
1914	15,976 89	29,206 32
1915	13,072 10	36,418 87

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Exclusive of depreciation, the net operating revenues of California Natural Gas Company, as shown by Table No. I, have been as follows:

1911	$104,587 55
1912	188,897 22
1913	132,618 00
1914	94,595 77
1915	63,292 29

Inasmuch as the company has no bonded indebtedness, practically all of the net operating revenues have been available for depreciation charges or dividends.

Valley Natural Gas Company contends that the earnings for 1915 are not a fair criterion of the earning power of the California Natural Gas Company properties. The company reports that during the latter part of 1915 considerable extensions were made, and that the earnings from these extensions are reflected in the earning statement only in the months of November and December, 1915. In applicants' Exhibit No. 1, the gross earnings for the three months ending March 31, 1916, are reported to have been $94,670.09. The operating expenses, including taxes but not depreciation, are reported at $66,118.50, leaving a net operating revenue of $28,551.50. On the basis of the showing made for three months, Valley Natural Gas Company estimates that the net earnings for 1916 will be in excess of $98,000.00.

In applicants' Exhibit No. 7, it is alleged that an additional supply of gas is soon to be obtained for service in the present field of operation, and that a demand now exists in the present territory for additional gas in the amount of 20 per cent of the gas at present delivered to California Natural Gas Company. In view of this possible increase in operating revenues, Valley Natural Gas Company contends that it is fair to assume that the company during the next ten years will realize a net operating revenue of $98,000.00 per annum. If these expectations should be realized, the company contends that it would be able to pay off $350,000.00 face value of bonds, redeem $200,000.00 par value of preferred stock, pay interest on its bonds and 8 per cent dividends upon its preferred and common stock, and accumulate a cash surplus of $93,000.00.

There is no evidence to show that the proposed contract (Applicants' Exhibit No. 5) between California Natural Gas Company and Standard Oil Company was taken into consideration in arriving at the assumed annual net revenue of $98,000.00. Should these applications be granted, this contract is to be assigned by California Natural Gas Company to Valley Natural Gas Company.

Article III of the contract reads:

> "In its operations and in the conduct of its business, the oil company utilizes gas in large quantities, and there is excepted from this contract, and reserved from the sale of gas herein provided for,

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the gas produced and saved by the oil company and required by the oil company in its operations and the conduct of its business up to, but not exceeding, six million cubic feet of gas per day."

When demanded by the gas company, the oil company agrees to erect one compressor plant on the oil company's land in Kern County, and to compress the gas taken from the oil company's wells to a pressure not less than 250 pounds. The cost of the compressor plant shall be paid by the oil company. The cost of operating the compressor plant, exclusive of depreciation, interest and overhead charges, the cost of transmitting the gas from the wells to the compressor plant and the cost of installing the mains from the wells to the compressor plant shall be borne by the gas company. All gasoline or vapor content produced in the process of compression shall belong to the oil company.

During a period of five years from the date of the contract, the gas company shall pay to the oil company 5 cents per 1,000 cubic feet of natural gas at a temperature of 60 degrees Fahrenheit on a four-ounce base over and above 14.4 pounds atmospheric pressure for all gas taken by the gas company from the oil company and resold by it at meter measurement. For gas sold by the gas company on a flat-rate basis, it shall pay to the oil company five-sevenths of its gross receipts from such sales, provided that such payment shall not exceed 5 cents per 1,000 cubic feet.

The following table shows the assets and liabilities of California Natural Gas Company as reported for March 31, 1916.

TABLE No. II.

Assets and Liabilities—California Natural Gas Company, March 31, 1916.

ASSETS.

Fixed capital installed prior to January 1, 1913		$309,127 47
Fixed capital installed since January 1, 1913		190,224 00
Landed capital	$6,940 54	
Transmission capital	174,732 95	
Distribution capital	6,963 82	
General capital	1,586 69	
Total capital		$499,351 47
Cash		4,328 63
Notes receivable		14,924 56
Accounts receivable		47,103 86
Gas consumers ledger	$36,044 63	
San Joaquin Light and Power Company	4,439 17	
Jos. McDonald (Fellows)	82 50	
Westside Gas Company	474 84	
Columbus Midway Oil Company	3,391 73	
Miscellaneous accounts receivable	2,670 99	
Investment		140 00
Materials and supplies		11,019 08
Total assets		$576,867 60

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LIABILITIES.

Capital stock:		
Authorized	$1,000,000 00	
Unissued	650,000 00	
		$350,000 00
Interest		316 85
Accounts payable		21,585 25
Standard Oil Company		10,000 00
Suspense		105 00
Accrued taxes		14,605 83
Accrued general expense		150 00
Reserve for accrued depreciation		83,970 06
Profit and loss		96,134 61
Total liabilities		$576,867 60

Mr. J. T. Ryan, of the J. G. White Engineering Corporation, testified that the cost to reproduce new the physical structures of California Natural Gas Company was $594,686.00, as shown by the following summary:

TABLE No. III.

Cost to Reproduce New Physical Structures of California Natural Gas Company, December 1, 1915.

J. G. WHITE ENGINEERING CORPORATION.

	Unit	Unit cost	Item	Total
Collection and transmission—				
Well connections		$9,588		
Pipe lines—				
Oilfields system	$281,068			
Bakersfield system	241,513			
Rights of way	9,277			
		531,858		
Meters		3,735		
Regulators		5,654		
Measuring station		5,155		
			$555,990	
General—				
General structures			6,238	
General equipment			32,458	
Total				$594,686

Mr. G. S. Jacobs, one of this Commission's assistant engineers, testified that the original cost, the cost to reproduce new and the cost to reproduce new less depreciation, of the physical structures of California Natural Gas Company as of March 1, 1916, was as follows:

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TABLE No. IV.

Original Cost, Reproduction Cost and Depreciated Redemption Cost of Physical Structures of California Natural Gas Company, March 1, 1916—Railroad Commission's Engineering Department.

	Original cost	Reproduction cost	Reproduction cost less depreciation
Excluding Stores and Supplies.			
Properties as of December 1, 1915	$472,464 80	$572,505 96	$456,583 34
Net additions to March 1, 1916	25,872 88	26,557 22	26,557 22
Total as of March 1, 1916	$498,337 68	$599,063 18	$483,140 56
Stores and Supplies.			
As of December 1, 1915	$19,056 79	$19,056 79	$19,056 79
Net difference to March 1, 1916	*7,681 98*	*7,681 98*	*7,681 98*
Total as of March 1, 1916	$11,374 81	$11,374 81	$11,374 81
Total Physical Properties.			
As of December 1, 1915	$491,521 59	$591,562 75	$475,640 13
Net additions to March 1, 1916	18,190 90	18,875 24	18,875 24
Total as of March 1, 1916	$509,712 49	$610,437 99	$494,515 37

Mr. Jacobs testified that the estimated reproduction cost new as of December 1, 1915, was $591,562.75, being $3,123.25 less than the estimate of the J. G. White Engineering Corporation. This difference is largely accounted for by the difference in allowance for overhead expenses.

The difference in the original cost, as reported by Mr. Jacobs, and the cost to reproduce new as testified to both by Mr. Ryan and Mr. Jacobs, is due in part to the fact that the original cost, as shown on the books of California Natural Gas Company, included only a partial allowance for overhead expenditures, and largely to the fact that certain drill and casing pipe, most of which had been used by Standard Oil Company for well casing and which was later, in September, 1915, sold by Standard Oil Company as second-hand pipe to California Natural Gas Company for $40,000.00 was considered, in the engineers' estimates of cost to reproduce, as though it were new pipe. Mr. Jacobs estimated that the cost to reproduce this pipe new, adding freight, would be $116,924.14.

In addition to acquiring the physical structures of California Natural Gas Company, the Valley Natural Gas Company will acquire the current assets and assume the current liabilities of California Natural Gas Company. On March 31, 1916, the current assets were reported to be $66,357.05, and the current liabilities were reported to be $46,657.93. The difference between the current assets and current liabilities amounts to $19,699.12. In addition to the current liabilities

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assumed by Valley Natural Gas Company, the company will be obliged to pay 6 per cent interest on $485,000.00 from December 1, 1915, to the date of the transfer of the properties. The interest to and including March 31, 1916, on the $485,000.00, amounts to $9,700.00, leaving the net current assets as of March 31, 1916, amounting to $9,999.12. The sum total of the net current assets plus reproduction cost less depreciation, as found by Mr. Jacobs, as of March 31, 1916, amounts to $504,514.49.

Should these applications be granted, Valley Natural Gas Company, during the first year of operation, will be called upon to meet the following charges:

8 per cent dividend on $100,000.00 common stock	$8,000 00
8 per cent dividend on $166,700.00 preferred stock	13,336 00
6 per cent interest on $100,000.00 bonds	6,000 00
7 per cent interest on $247,500.00 note	17,325 00
	$44,661 00

These charges make no allowance for the retirement of bonds, $50,000.00 of which mature March 15, 1918, and $50,000.00 annually thereafter.

Valley Natural Gas Company asks authority to execute to Anglo-California Trust Company a mortgage or deed of trust securing the payment of $2,000,000.00 face value of first mortgage 6 per cent serial gold bonds. The bonds are to be dated March 15, 1916. Of the bonds, $700,000.00 face value, numbered 1 to 700, inclusive, are to mature serially, $50,000.00 face value of said bonds maturing each year, beginning March 15, 1918, to and including March 15, 1931. The remaining $1,300,000.00 face value of bonds, being bonds numbered 701 to 2,000, inclusive, mature March 15, 1946. The bonds bear interest at the rate of 6 per cent per annum, payable semiannually March 15th and September 15th of each year. Bonds are callable at par plus accrued interest. To further secure the payment of bonds numbered 701 to 2,000, inclusive, the company agrees to pay to the trustee on September 15, 1924, and annually thereafter to and including September 15, 1931, an amount equal to one-half of 1 per cent of the said bonds, numbered 701 to 2,000, inclusive, outstanding. On September 15, 1932, and annually thereafter until the maturity of the bonds, an amount equal to 1 per cent of said bonds outstanding is to be paid to the trustee. Like amounts are to be set aside during the aforementioned years for an improvement fund. The deed of trust contains a provision that none of the bonds numbered 701 to 2,000, inclusive, shall be issued for the payment of cost of extensions, additions or betterments, unless such extensions, additions or betterments have a prospective life at least as long as March 15, 1946. The company may issue bonds subsequent to

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the issue of bonds numbered 1 to 350, inclusive, to pay for 70 per cent of the reasonable cost of extensions, additions, or betterments, provided the gross earnings of the company, after deducting operating expenses, including taxes, insurance and reasonable allowance for repairs and maintenance, shall be equal to 2½ times the interest on the bonds outstanding, plus the interest on the bonds to be issued. It is the intention of the Valley Natural Gas Company to issue its serial bonds to pay for cost of extensions, additions and betterments to its natural gas transmission and distribution system, and to use the remaining $1,300,000.00 face value of bonds, maturing in 1946, to pay for artificial gas plants or other investments which partake of a more permanent nature than the natural gas industry.

According to the terms of Exhibit "D" attached to Application No. 2173, Valley Natural Gas Company proposes to borrow from Anglo-California Trust Company $250,000.00, the same to be used in part payment for the properties to be acquired from California Natural Gas Company.

The company originally proposed to dispose of its bonds at 90 per cent of the face value thereof, plus accrued interest. It now appears that the company will be able to sell the same for not less than 92½ per cent of the face value and accrued interest, netting $92,500.00, instead of $90,000.00, as originally contemplated. It thus becomes necessary for the company to borrow $247,500.00 instead of $250,000.00. The indebtedness to the Anglo-California Trust Company is to be represented by a note payable within one year after date, said note to be secured by pledging $278,000.00 face value of bonds and $100,000.00 par value of common stock. Inasmuch as the note is to be issued for a term of one year, this Commission's authorization is not necessary. The Commission's consent, however, must be obtained to the pledge of the bonds and the issue of the common stock.

Valley Natural Gas Company states that it is its hope and intention to gather and conserve for sale natural gas which is now going to waste, and to extend its field of operation into new sections of territory. It proposes to construct a line into the Kern River petroleum fields for the purpose of selling gas for the pumping of oil wells. It has made a preliminary survey of a portion of the San Joaquin Valley and states its belief that large opportunities are offered for the distribution and sale of natural gas over an extensive area reaching as far north as Fresno.

It is stated that the development of the company's plans will proceed in a measure commensurate with its ability to finance.

The original financial undertakings of the Valley Natural Gas Company are on a high interest basis. The company anticipates, however,

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with the development of its plans, to obtain more favorable terms than it can at the outset.

It has heretofore been pointed out with some particularity by this Commission that natural gas enterprises are hazardous in their very nature, and that they may not therefore be judged by the ordinary standards applicable to public utility projects. I believe the applicant herein should be encouraged in its efforts to undertake the conservation of natural gas now going to waste, and to extend its realm of usefulness; provided, that the substitution of this agency with its plan of financing, for California Natural Gas Company, does not result in an increase of rates to the customers of California Natural Gas Company.

I recommend that this application be granted, subject to the conditions specified in the order herein, and submit the following form of order:

ORDER.

California Natural Gas Company having applied to the Railroad Commission for an order authorizing the sale of its entire property used in the natural gas business in Kern County, California, to Valley Natural Gas Company, and Valley Natural Gas Company having applied to the Railroad Commission for an order authorizing the issue of capital stock and bonds, as set forth in the opinion which precedes this order, and to execute a mortgage or deed of trust of its properties to Anglo-California Trust Company, of San Francisco, and a public hearing having been held and the Railroad Commission finding that the purposes for which Valley Natural Gas Company proposes to issue said capital stock and bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

1. California Natural Gas Company is hereby authorized to sell to Valley Natural Gas Company the entire property of California Natural Gas Company used in the natural gas business in Kern County, California, which property is more particularly described in Exhibit "A" which is attached hereto and made a part hereof, on the following conditions and not otherwise, to wit:

(*a*) If California Natural Gas Company proposes to transfer to Valley Natural Gas Company any franchise or permit from the board of supervisors of Kern County, or other public authority authorizing the use of any public road or highway in Kern County, the authority herein given to California Natural Gas Company to transfer its property to Valley Natural Gas Company shall not become effective until the Railroad Commission shall have issued a supplemental order herein reciting that Valley Natural Gas Company has filed herein a stipulation, duly authorized by its board of directors, declaring that Valley Natural Gas Company, its successors and

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assigns, will never claim in any proceeding before the Railroad Commission or any court or other public authority, any value for such franchise or permit in excess of the price being paid therefor by Valley Natural Gas Company, which price shall be specified in such stipulation.

(*b*) Within thirty days from the execution and delivery by California Natural Gas Company of a deed conveying its properties to Valley Natural Gas Company, California Natural Gas Company shall file herein a true and correct copy of such deed.

2. Valley Natural Gas Company is hereby authorized to issue $378,000.00, face value, of its first mortgage 6 per cent serial gold bonds, being bonds numbered 1 to 378, inclusive, to be secured by the deed of trust or mortgage hereinafter referred to; 2,000 shares of 8 per cent preferred stock of the par value of $100.00 per share; and 1,000 shares of common stock of the par value of $100.00 per share; and to execute a mortgage or deed of trust of its properties to Anglo-California Trust Company, of San Francisco, trustee, substantially in the form of the deed of trust or mortgage filed herein in Application No. 2172, and marked Exhibit "B," to which document reference is hereby made, said deed of trust being dated March 15, 1916, and securing an authorized issue of $2,000,000.00, face value, of first mortgage 6 per cent serial gold bonds—all upon the conditions following and not otherwise, to wit:

(*a*) Of the $378,000.00 of bonds herein authorized to be issued $100,000.00 of bonds, being bonds numbered 1 to 100, inclusive, shall be sold so as to net Valley Natural Gas Company not less than 91½ per cent of the face value thereof plus accrued interest thereon; $250,000.00, face value, of said bonds, being bonds numbered 101 to 350, both numbers inclusive, may be sold by Valley Natural Gas Company so as to net not less than 90 per cent of the face value thereof plus accrued interest thereon; and $278,000.00, face value, of said bonds, being bonds numbered 101 to 378, both numbers inclusive, may be pledged as collateral security for a promissory note in the sum of $247,500.00, to be issued by Valley Natural Gas Company to Anglo-California Trust Company.

(*b*) Of the 2,000 shares of 8 per cent preferred stock herein authorized to be issued, 55 shares shall be issued to C. B. Colby, to reimburse said Colby for $5,000.00 paid by him to California Natural Gas Company as part payment for said company's property, and 1,945 shares of said stock shall be sold so as to net Valley Natural Gas Company not less than $90.00 per share.

(*c*) The 1,000 shares of common stock herein authorized to be issued shall be issued to California Natural Gas Company in part payment for its property.

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(*d*) The proceeds from the sale of $100,000.00 of bonds, being bonds numbered 1 to 100, inclusive, and from 1,612 shares of the 8 per cent preferred stock of Valley Natural Gas Company, shall be applied toward the purchase of the properties of California Natural Gas Company.

(*e*) The proceeds from the sale of $250,000.00 of bonds herein authorized to be issued, being bonds numbered 101 to 350, inclusive, and the proceeds from the sale of 333 shares of 8 per cent preferred stock of Valley Natural Gas Company herein authorized to be issued, shall be used for the purpose of paying off a promissory note in the sum of $247,500.00 which Valley Natural Gas Company proposes to issue to Anglo-California Trust Company.

(*f*) The authority herein granted to issue stocks and bonds is conditioned upon the acquisition by Valley Natural Gas Company of the entire properties of California Natural Gas Company used in the natural gas business in Kern County for not to exceed $490,000.00 in cash and 1,000 shares of the common stock of the Valley Natural Gas Company.

(*g*) The authority hereby given to Valley Natural Gas Company to issue capital stock and bonds shall not be effective until the Railroad Commission shall have issued a supplemental order reciting that Valley Natural Gas Company has filed herein a stipulation, duly authorized by its board of directors, and in form satisfactory to the Railroad Commission, declaring that Valley Natural Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public authority, that the capital stock and bonds of Valley Natural Gas Company herein authorized represent for rate making or other purposes the fair value of the properties of California Natural Gas Company to be acquired by Valley Natural Gas Company.

(*h*) The authority hereby given to Valley Natural Gas Company to issue capital stock and bonds shall not become effective until the Railroad Commission shall have issued a supplemental order reciting that Valley Natural Gas Company has filed herein a stipulation, duly authorized by its board of directors, and in form satisfactory to the Railroad Commission, declaring that Valley Natural Gas Company, its successors and assigns, will never ask for authority to increase the rates now being charged by California Natural Gas Company to its present consumers, by reason or as the result of the transfer of the properties of California Natural Gas Company to Valley Natural Gas Company, and that if Valley Natural Gas Company ever asks authority to increase the rates now charged by California Natural

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Gas Company to its existing consumers or any of them, such application will be based solely on increased costs of construction, maintenance or operation in no way caused by or growing out of said transfer of the properties of California Natural Gas Company to Valley Natural Gas Company.

(*i*) The approval herein given to Valley Natural Gas Company to execute a deed of trust or mortgage of its properties is for the purpose of this proceeding only, and an approval in so far as the Railroad Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deed of trust or mortgage as to such other legal requirements to which said deed of trust or mortgage may be subject.

(*j*) Valley Natural Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the capital stock and bonds hereby authorized to be issued and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(*k*) The authority herein granted to issue bonds is conditioned upon the payment of the fee prescribed by the Public Utilities Act.

(*l*) The authority herein given to issue stock and bonds shall apply only to such stock and bonds as shall have been issued on or before May 31, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of May, 1916.

EXHIBIT "A."

All and singular the property and assets of whatever kind and nature of California Natural Gas Company, whether real, personal or mixed, tangible or intangible (save and except the corporate franchise of California Natural Gas Company), including the following described real and personal property:

(*a*) That certain piece and parcel of land situate, lying and being in the county of Kern, State of California, now used as a site for said California Natural Gas Company's metering station, which said land is particularly described as follows:

Beginning at the intersection of the quarter section line between the northeast quarter (N. E. ¼) and the southeast quarter (S. E. ¼) of section thirty-five (35), township twenty-nine (29) south, range twenty-seven (27) east, Mount Diablo base and meridian, with the west line of the county road on line between sections thirty-five (35) and thirty-six (36), township twenty-nine (29) south, range twenty-seven

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(27) east, Mount Diablo base and meridian, thence south along west line of said county road fifty (50) feet, thence west parallel with said quarter section line one hundred and fifty (150) feet; thence north parallel with said county road fifty (50) feet; thence east along said quarter section line one hundred and fifty (150) feet to place of beginning, and containing an area of one hundred and seventy-two one-thousandths (172-1000) of an acre, more or less.

(*b*) The leasehold interest of California Natural Gas Company in and to that certain land situate in section fourteen (14), township thirty-two (32) south, range twenty-three (23) east, Mount Diablo base and meridian, more particularly described as follows:

Beginning at a point in the westerly line of the sixty foot road lying equally in sections thirteen (13) and fourteen (14), in said township and range, said point being fifty (50) feet northerly at right angles from the north line of the one hundred (100) foot right of way of the Sunset Western Railroad Company; thence northerly along said westerly line of county road, two hundred (200) feet; thence westerly at right angles to last mentioned course two hundred (200) feet; thence southerly, and parallel to said westerly line of county road one hundred and thirty-three (133) feet, more or less, to a point fifty (50) feet, northerly at right angles from said northerly right of way line of Sunset Western Railroad Company; thence southeasterly parallel and distant fifty (50) feet from said northerly right of way line two hundred and eleven (211) feet, more or less, to the point of beginning, containing seventy-five one-hundredths (75-100) of an acre, more or less; by virtue of that certain lease thereof heretofore, towit on February 1, 1913, made and executed by Standard Oil Company to California Natural Gas Company for a term ending December 31, 1922.

(*c*) Twenty-three (23) pipe lines heretofore operated by the said California Natural Gas Company in the county of Kern, State of California, in its business of collecting, transporting and distributing natural gas, as follows:

LINE A: A four (4) inch line from near the center of section twenty-two (22), township thirty-one (31) south, range twenty-three (23) east, to mile twenty-four (24) on Bakersfield line, length fifty-seven thousand six hundred and eighty (57,680) feet.

LINE B: A four (4) inch line from Rio Bravo pumping station to Bakersfield metering station on Oak street, length sixty-two thousand nine hundred and seventeen (62,917) feet.

LINE C: A four (4) inch line from Standard Oil Company's pumping station near Taft to Maricopa, with a two (2) inch lateral east of Maricopa, length, four (4) inch line fifty-two thousand eight hundred and twenty-four (52,824) feet; two (2) inch line seven thousand four hundred and seven (7,407) feet.

LINE D: A two (2) inch line from section twenty-two (22), township thirty-one (31) south, range twenty-three (23) east, Mount Diablo base and meridian, to Fellows, length eighteen thousand and sixty (18,060) feet.

LINE E: A two (2) inch tie line extending west from the town of Taft, length sixteen thousand four hundred (16,400) feet.

LINE F: A two (2) inch line from near the center of section thirty-two (32), township thirty-two (32) south, range twenty-four (24) east, to near the center of section twenty-eight (28), township thirty-two (32) south, range twenty-four (24) east, length six thousand two hundred and twenty (6,220) feet.

LINE G: A two (2) inch line from west line to center of section (5), township thirty-two (32) south, range twenty-three (23) east, length three thousand and twenty-eight (3,028) feet.

LINE H: A two (2) inch tie line in section thirty (30), township thirty-two (32) south, range twenty-four (24) east, Mount Diablo base and meridian, length two thousand six hundred and seventy-two (2,672) feet.

LINE I: A four (4) inch line from near the town of Fellows to near the town of Taft with a two (2) inch lateral, length, four (4) inch line twenty-nine thousand six hundred and eighty-two (29,682) feet; two (2) inch line seven thousand six hundred and sixty-five (7,665) feet.

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LINE J: A two (2) inch line along the northern line of sections fifteen (15) and sixteen (16), township thirty-two south, range twenty-four (24) east, Mount Diablo base and meridian, length eight thousand five hundred and sixty-nine (8,569) feet.

LINE K: A two (2) inch extension of line No. Eight (8) in sections twenty (20) and thirty (30), township thirty-two (32) south, range twenty-four (24) east, Mount Diablo base and meridian, length four thousand five hundred and six (4,506) feet.

LINE M: A four (4) inch line from Standard Oil Company's Well No. 1, on section twenty-two (22), township thirty-one (31) south, range twenty-three (23) east, to connection with other lines near the town of Fellows, length thirty thousand six hundred and fourteen (30,614) feet.

LINE P.D.: A system of four (4) inch and two (2) inch connecting and tie lines in the oil fields, known as the P.D. lines, total length, four (4) inch lines one hundred thirteen thousand three hundred and sixty-two (113,362) feet; two inch lines ninety-eight thousand three hundred and nine (98,309) feet.

LINE R: A four (4) inch line from the Honolulu Oil Company on section four (4), township thirty-two (32) south, range twenty-four (24) east, Mount Diablo base and meridian, to junction with line number three (3) near Maricopa, length thirty thousand nine hundred and eighty-three (30,983) feet.

LINE T: A six (6) inch line from Standard Oil Company's pumping station near Taft to section sixteen (16), township thirty-two (32) south, range twenty-four (24) east, and also to the town of Taft, length, twenty-nine thousand six hundred and sixty-eight (29,668) feet.

LINE U: A two (2) inch line from Standard Oil Company's Well number eight (8) in section twenty-six (26), township thirty-one (31) south, range twenty-three (23) east, Mount Diablo base and meridian, to Union Oil Company in section thirty-four (34), township thirty-one (31) south, range twenty-three (23) east, Mount Diablo base and meridian, length ten thousand and five (10,005) feet.

LINE V: A four (4) inch line from Standard Oil Company's wells in section sixteen (16), township thirty-two (32) south, range twenty-four (24) east, to junction with other lines near the center of section thirty-two (32), in the same township and range, length nineteen thousand six hundred and sixteen (19,616) feet.

LINE W: A line of six (6) inch and four (4) inch pipe in section thirty-six (36), township thirty-one (31) south, range twenty-three (23) east, connecting several wells of the Standard Oil Company with the transmission lines of the California Natural Gas Company; length of six (6) inch seven thousand three hundred and fifty-three (7,353) feet; four (4) inch seven thousand one hundred and one (7,101) feet.

LINE X: A six (6) inch line from Mile 24 of the Bakersfield line to Rio Bravo pumping station of the Standard Oil Company, length forty-four thousand nine hundred and twenty-nine (44,929) feet.

LINE Y: A four (4) inch line from Standard Oil Company's Well No. Two (2) in section twenty-eight (28), township thirty-one (31) south, range twenty-three (23) east, Mount Diablo base and meridian, connecting said well to the California Natural Gas Company's pipe lines, length two thousand seven hundred and twelve (2,712) feet.

LINE N: An eight (8) inch line from near the center of section twenty-six (26), township thirty-one (31) south, range twenty-three (23) east, to Mile 24 on the Bakersfield line.

LINE O: A six (6) inch line from Rio Bravo pumping station of the Standard Oil Company to the Standard Oil Company's refinery near Waits.

(*d*) All pipes, valves, fittings and other connections which connect the above mentioned gas lines to the hereinafter mentioned gas wells of the Standard Oil Company, and all appliances for controlling and regulating the flow of gas from said wells heretofore operated and employed by California Natural Gas Company:

From wells numbered one (1), two (2) and five (5), in section twenty-two (22), township thirty-one (31) south, range twenty-three (23) east, Mount Diablo base and meridian.

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From wells numbered one (1), two (2), three (3), four (4), five (5), six (6), eight (8) and nine (9) in section twenty-six (26), township thirty-one (31) south, range twenty-three (23) east, Mount Diablo base and meridian.

From wells numbered six (6) and twenty-six (26) in section thirty-six (36), township thirty-one (31) south, range twenty-three (23) east, Mount Diablo base and meridian.

(*e*) That certain right of way granted by United Midway Oil Land Company, a corporation, to Standard Oil Company, a corporation, by deed bearing date January 5, 1911, which said deed was on the tenth day of January, 1911, recorded in the office of the county recorder of the county of Kern, State of California, in Liber 243 of Deeds at page 336 thereof; an undivided interest in which said right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company by deed bearing date June 3, 1912.

(*f*) An undivided interest in that certain right of way granted by Kern County Land Company, a corporation, to said Standard Oil Company, by deed bearing date May 27, 1908, which said deed was on the thirteenth day of June, 1908, recorded in the office of the county recorder of said county of Kern, State of California, in Liber 199 of Deeds, page 422 thereof; an undivided interest in which said right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company by deed bearing date June 3, 1912.

(*g*) An undivided interest in that certain right of way granted by Miller & Lux, incorporated, a corporation, to said Standard Oil Company, by deed bearing date March 11, 1907, which said deed was on March 29, 1907, recorded in the office of the county recorder of said county of Kern, State of California, in Liber 187 of Deeds, at page 177 thereof; the terms of which said right of way were thereafter modified by an agreement between said Miller & Lux, incorporated, and said Standard Oil Company, by agreement dated February 19, 1908; an undivided interest in which said right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company by deed dated June 3, 1908.

(*h*) An undivided interest in that certain right of way granted by Midway Valley Oil Company, a corporation, to said Standard Oil Company, by deed bearing date December 30, 1910, which said deed was on the tenth day of January, 1911, recorded in the office of the county recorder of said county of Kern, State of California, in Liber 243 of Deeds, at page 334 thereof; an undivided interest in which said right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company, by deed bearing date June 3, 1912.

(*i*) An undivided interest in that certain right of way granted by D. Kinsey to said Standard Oil Company, by deed dated February 6, 1911, which said deed was on the eighth day of February, 1911, recorded in the office of the county recorder of said county of Kern, State of California, in Liber 249 of Deeds at page 75 thereof; an undivided interest in which said right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company, by deed bearing date June 3, 1912.

(*j*) An undivided one-third interest in that certain right of way granted by Southern Pacific Railroad Company, a corporation, to Standard Oil Company, by an instrument bearing date March 13, 1911; an undivided one-third interest in which said right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company, by an instrument of transfer bearing date October 12, 1911.

(*k*) An undivided one-third interest in that certain right of way granted by Southern Pacific Railroad Company to Standard Oil Company by an instrument bearing date October 8, 1910; an undivided one-third interest in which said right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company by an instrument of transfer bearing date October 12, 1911.

(*l*) An undivided interest in that certain right of way granted by Southern Pacific Railroad Company, a corporation, to said Standard Oil Company, by deed bearing date July 9, 1907; an undivided interest in which said right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company by an instrument of transfer bearing date June 3, 1912.

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(*m*) An undivided one-third interest in that certain right of way granted by Southern Pacific Railroad Company, a corporation, to said Standard Oil Company, by instrument bearing date May 28, 1909; an undivided one-third interest in which right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company by an instrument of transfer bearing date October 12, 1911.

(*n*) That certain right of way granted by Alaska Pioneer Oil Company, a corporation, to California Natural Gas Company by deed bearing date November 29, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Book 264 of Deeds, at page 171 thereof.

(*o*) That certain right of way granted by Mays Consolidated Oil Company, a corporation, to California Natural Gas Company, by deed bearing date November 27, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds at page 183 thereof.

(*p*) That certain right of way granted by Mays Consolidated Oil Company, a corporation, to California Natural Gas Company, by deed bearing date November 27, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds at page 182 thereof.

(*q*) That certain right of way granted by United Oil Company, a corporation, to California Natural Gas Company, by deed bearing date September 8, 1911, which said deed was on the 26th day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 195 thereof.

(*r*) That certain right of way granted by Midland Oil Company, a corporation, to California Natural Gas Company by deed bearing date February 28, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 198 thereof.

(*s*) That certain right of way granted by Cheney-Stimson Oil Co., a corporation, to California Natural Gas Company, by deed dated September 14, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds at page 174 thereof.

(*t*) That certain right of way granted by Hale-McLeod Oil Company, a corporation, to California Natural Gas Company, by deed dated August 25, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, at page 207 thereof.

(*u*) That certain right of way granted by Hale-McLeod Oil Company, a corporation, to California Natural Gas Company, by deed dated August 25, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 205 thereof.

(*v*) That certain right of way granted by North American Oil, Consolidated, a corporation, to California Natural Gas Company by deed dated September 11, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 185 thereof.

(*w*) That certain right of way granted by North American Oil, Consolidated, a corporation, to California Natural Gas Company, by deed dated September 11, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 187 thereof.

(*x*) That certain right of way granted by North American Oil, Consolidated, a corporation, to California Natural Gas Company, by deed dated September 11, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 190 thereof.

(*y*) That certain right of way granted by Cresceus Oil Company, a corporation, to California Natural Gas Company, by deed bearing date December 18, 1912, over

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lands situate in the northwest quarter of the southwest quarter of section twenty-five (25), township thirty-two (32) south, range twenty-three (23) east, Mount Diablo base and meridian.

(*z*) That certain right of way granted by North American Oil, Consolidated, a corporation, to California Natural Gas Company, by deed dated September 11, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 186 thereof.

(*aa*) That certain right of way granted by North American Oil, Consolidated, a corporation, to California Natural Gas Company, by deed dated September 11, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 189 thereof.

(*bb*) That certain right of way granted by North American Oil, Consolidated, a corporation, to California Natural Gas Company, by deed dated September 11, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 188 thereof.

(*cc*) That certain right of way granted by Esperanza Consolidated Oil Company, a corporation, to California Natural Gas Company, by deed dated September 7, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in Book 264 of Deeds, page 177 thereof, in the office of the county recorder of said county of Kern.

(*dd*) That certain right of way granted by Southern Pacific Railroad Company, a corporation, to California Natural Gas Company by an instrument bearing date December 23, 1911, over a designated route in section twenty-one (21), township thirty-two (32) south, range twenty-four (24) east, Mount Diablo base and meridian, and section twenty-five (25), township twelve (12) north, range twenty-four (24) west, Santa Barbara base and meridian.

(*ee*) That certain right of way granted by Southern Pacific Railroad Company, a corporation, to California Natural Gas Company, by an instrument bearing date November 4, 1911, over a designated route in section thirty-three (33), township thirty-two (32) south, range twenty-four (24) east, Mount Diablo base and meridian.

(*ff*) That certain right of way granted by Union Oil Company of California, a corporation, to California Natural Gas Company by deed dated March 8, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 196 thereof.

(*gg*) That certain right of way granted by Esperanza Consolidated Oil Company, a corporation, to California Natural Gas Company by deed dated September 7, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county, of Kern, in Liber 264 of Deeds, page 176 thereof.

(*hh*) That certain right of way granted by Section Twenty-five Oil Company, a corporation, to California Natural Gas Company, by deed dated November 27, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 194 thereof.

(*ii*) That certain right of way granted by Safe Oil Company, a corporation, to California Natural Gas Company, by deed dated November 24, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 193 thereof.

(*jj*) That certain right of way granted by Knob Hill Oil Company, a corporation, to California Natural Gas Company, by deed dated August 25, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 180 thereof.

(*kk*) That certain right of way granted by B. H. C. Oil Company, a corporation, to California Natural Gas Company, by deed dated Navember 24, 1911, which said

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deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 173 thereof.

(*ll*) That certain right of way granted by Babcock Oil Company, a corporation, to California Natural Gas Company, by deed dated August 8, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 172 thereof.

(*mm*) That certain right of way granted by Edmonds Midway Oil Company, a corporation, to California Natural Gas Company, by deed dated December 12, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 175 thereof.

(*nn*) That certain right of way granted by Wellman Oil Company, a corporation, to California Natural Gas Company, by deed dated February 20, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 197 thereof.

(*oo*) That certain right of way granted by Pierpont Oil Company, a corporation, to California Natural Gas Company, by deed dated August 23, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 208 thereof.

(*pp*) That certain right of way granted by Mascot Oil Company, a corporation, to California Natural Gas Company, by deed dated December 12, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 184 thereof.

(*qq*) That certain right of way granted by American Oilfields Company, a corporation, to California Natural Gas Company by deed dated December 1, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 201 thereof.

(*rr*) That certain right of way granted by American Oilfields Company, a corporation, to California Natural Gas Company by deed dated February 28, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 199 thereof.

(*ss*) That ecrtain right of way granted by Chanslor-Canfield Midway Oil Company, a corporation, to California Natural Gas Company, by an instrument bearing date April 15, 1913, for a pipe line upon and across the east half of the southeast quarter of section thirty-one (31), township thirty-one (31) south, range twenty-three (23) east, and sections nine (9) and ten (10), township thirty-two (32) south, range twenty-three (23) east, Mount Diablo base and meridian.

(*tt*) That certain right of way granted by W. J. Murphy and Baltimore Oil Company, a corporation, to California Natural Gas Company, by deed bearing date January 9, 1913, for a pipe line in the southwest quarter of the southwest quarter of section twenty-eight (28), township thirty-two (32) south, range twenty four (24) east, Mount Diablo base and meridian.

(*uu*) That certain right of way granted by Dunlop Oil Company, a corporation, to California Natural Gas Company, by deed bearing date April 1, 1913, for a pipe line in the northwest quarter of the northwest quarter of section twenty-six (26), township thirty-two (32) south, range twenty-three (23) east, Mount Diablo base and meridian.

(*vv*) That certain right of way granted by Miller & Lux, Incorporated, a corporation, to California Natural Gas Company, by an instrument bearing date December 20, 1913, for a pipe line in section twenty-two (22), township thirty (30) south, range twenty-five (25) east, Mount Diablo base and meridian.

(*ww*) That certain right of way granted by Southern Pacific Land Company, a corporation, to California Natural Gas Company, by an instrument bearing date December 23, 1913, for a pipe line in section one (1), township thirty-one (31), south, range twenty-four (24) east, Mount Diablo base and meridian.

(*xx*) That certain right of way granted by Southern Pacific Company, a corporation, to California Natural Gas Company, by an instrument bearing date March 20, 1912, for a pipe line across the railroad right of way of said Southern Pacific Company at or near its Engineer's Station 4112 + 25.7, in the said county of Kern.

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(*yy*) That certain right of way granted by Southern Pacific Company, a corporation, to California Natural Gas Company, by an instrument bearing date September 1, 1915, for a pipe line along the railroad right of way of said grantor near the town of Waits, in said county of Kern, State of California.

(*zz*) That certain right of way granted by Southern Pacific Company, a corporation, to California Natural Gas Company, by an instrument bearing date February 15, 1916, for a pipe line across the railroad right of way of said grantor near Derwent station in said county of Kern.

(*aaa*) That certain right of way granted by John Enas to California Natural Gas Company, by deed dated December 20, 1915, which said deed was on the twentieth day of January, 1916, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 270 thereof.

(*bbb*) That certain right of way granted by T. A. Wells to California Natural Gas Company, by deed dated May 19, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 1 thereof.

(*ccc*) That certain right of way granted by Marguerite T. McCray to California Natural Gas Company, by deed dated May 22, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 2.

(*ddd*) That certain right of way granted by A. G. Wishon Company, a corporation, to California Natural Gas Company, by deed dated June 11, 1915, which said deed was on the nineteenth day of October recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 3 thereof.

(*eee*) That certain right of way granted by Katherine Johnson and O. P. M. Mills to California Natural Gas Company, by deed dated May 25, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304, of Deeds, page 5 thereof.

(*fff*) That certain right of way granted by Vance W. Treadway to California Natural Gas Company, by deed dated May 19, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 16 thereof.

(*ggg*) That certain right of way granted by Laura Hitt to California Natural Gas Company, by deed dated May 21, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 18 thereof.

(*hhh*) That certain right of way granted by W. W. Duggins to California Natural Gas Company, by deed dated May 21, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 20 thereof.

(*iii*) That certain right of way granted by W. H. Francis to California Natural Gas Company, by deed dated May 29, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 21 thereof.

(*jjj*) That certain right of way granted by W. T. Robinson to California Natural Gas Company, by deed dated May 29, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 22 thereof.

(*kkk*) That certain right of way granted by R. H. Copeland to California Natural Gas Company, by deed dated June 1, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 24 thereof.

(*lll*) That certain right of way granted by M. G. Hart to California Natural Gas Company, by deed dated May 26, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 25 thereof.

(*mmm*) That certain right of way granted by R. W. Morgan to California Natural Gas Company, by deed dated May 27, 1915, which said deed was on the nineteenth

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day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 26 thereof.

(*nnn*) That certain right of way granted by J. W. Noble to California Natural Gas Company by deed dated May 26, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 27 thereof.

(*ooo*) That certain right of way granted by J. M. Hitchcock to California Natural Gas Company by deed dated May 26, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 29 thereof.

(*ppp*) That certain right of way granted by P. L. Jewett to California Natural Gas Company, by deed dated June 10, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 30 thereof.

(*qqq*) That certain right of way granted by Harry J. McAllister to California Natural Gas Company by deed dated May 26, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 31 thereof.

(*rrr*) That certain right of way granted by E. P. Hoisington to California Natural Gas Company, by deed dated May 24, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 32 thereof.

(*sss*) That certain right of way granted by Lucy Eleanor Jewett to California Natural Gas Company, by deed dated June 10, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 34 thereof.

(*ttt*) That certain right of way granted by Bakersfield Realty and Building Company to California Natural Gas Company, by deed dated June 1, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 35 thereof.

(*uuu*) That certain right of way granted by Emma K. Storrs to California Natural Gas Company, by deed dated May 29, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 37 thereof.

(*vvv*) That certain right of way granted by H. E. Hodgin to California Natural Gas Company, by deed dated May 29, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 38 thereof.

(*www*) That certain right of way granted by John Cody to California Natural Gas Company, by deed dated May 29, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 39 thereof.

(*xxx*) That certain right of way granted by A. W. Town to California Natural Gas Company, by deed dated May 29, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 41 thereof.

(*yyy*) That certain right of way granted by Amos Weller to California Natural Gas Company, by deed dated May 29, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 42 thereof.

(*zzz*) That certain right of way, granted by Eugene Whitt to California Natural Gas Company, by deed dated May 29, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern in Liber 304 of Deeds, page 44 thereof.

(*aaaa*) That certain right of way granted by L. W. Johnson to California Natural Gas Company, by deed dated May 28, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 45 thereof.

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(*bbbb*) That certain right of way granted by Miller & Lux, incorporated, a corporation, to California Natural Gas Company, by deed dated July 29, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 46 thereof.

(*cccc*) That certain right of way granted by John Kruger to California Natural Gas Company, by deed dated May 28, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 49 thereof.

(*dddd*) That certain right of way granted by Eva May Dulgar to California Natural Gas Company, by deed dated May 25, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 51 thereof.

(*eeee*) That certain right of way granted by I. W. Marbaugh to California Natural Gas Company, by deed dated May 21, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 52 thereof.

(*ffff*) That certain right of way granted by W. W. Kays to California Natural Gas Company, by deed dated May 20, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 54 thereof.

(*gggg*) That certain right of way granted by A. L. Renfro to California Natural Gas Company, by deed dated May 21, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 55 thereof.

(*hhhh*) That certain right of way granted by Kern County Land Company, a corporation, to California Natural Gas Company, by deed dated July 31, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 6 thereof.

(*iiii*) That certain right of way granted by Kern County Land Company, a corporation, to California Natural Gas Company, by deed dated July 31, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 56 thereof.

(*jjjj*) That certain right of way granted by Warren Olney, George L. Bishop and R. D. Houghton to California Natural Gas Company, by deed dated June 4, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 304 of Deeds, page 70 thereof.

(*kkkk*) That certain right of way granted by J. H. Mosher to California Natural Gas Company, by deed dated May 7, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Book 301 of Deeds, page 20 thereof.

(*llll*) That certain right of way granted by Michael J. Burke to California Natural Gas Company by deed dated May 7, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 301 of Deeds, page 21 thereof.

(*mmmm*) That certain right of way granted by Lin Creason to California Natural Gas Company, by deed dated May 7, 1915, which said deed was on the nineteenth day of October, 1915, recorded in the office of the county recorder of said county of Kern, in Liber 301 of Deeds, page 22 thereof.

(*nnnn*) That certain right of way granted by Southern Pacific Land Company, a corporation, to California Natural Gas Company, by an instrument bearing date July 23, 1915, for a pipe line in section twenty-five (25), township thirty-one (31) south, range twenty-three (23) east, and in section twenty-one (21), township thirty-one (31) south, range twenty-four (24) east, and in section fifteen (15), township thirty-one (31) south, range twenty-four (24) east, Mount Diablo base and meridian.

(*oooo*) That certain right of way granted by Southern Pacific Company, a corporation, to California Natural Gas Company, by an instrument bearing date

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August 2, 1915, for a pipe line along and across the railroad right of way of said grantor used in the operation of its Kern River branch railroad.

(*pppp*) That certain right of way granted by Southern Pacific Company, a corporation, to California Natural Gas Company, by an instrument bearing date June 22, 1915, for a pipe line across the railroad right of way of the grantor at its Engineer's Station 4079 + 22.5 in said county of Kern.

(*qqqq*) That certain right of way granted by The Atchison Topeka and Santa Fe Railway Company, a corporation, to California Natural Gas Company, by an instrument bearing date August 20, 1915, for a pipe line across the railroad right of way of the grantor at mile post 894 + 2890.1, near the station of Rosedale in said county of Kern.

(*rrrr*) That certain right of way granted by Southern Pacific Land Company, a corporation, to California Natural Gas Company, by an instrument bearing date January 7, 1916, for a pipe line in section seven (7), township twenty-nine (29) south, range twenty-eight (28) east.

(*ssss*) That certain right of way granted by Empire Gas and Fuel Company, a corporation, to California Natural Gas Company, by deed bearing date December 21, 1912, for a pipe line in section fifteen (15), township thirty-two (32) south, range twenty-three (23) east, Mount Diablo base and meridian.

(*tttt*) That certain right of way granted by Continental Petroleum Company, a corporation, to California Natural Gas Company, by deed dated May 9, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 203 thereof.

(*uuuu*) That certain right of way granted by Esperanza Consolidated Oil Company, a corporation, to California Natural Gas Company, by deed dated September 7, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 179 thereof.

(*vvvv*) That certain right of way granted by North American Oil, Consolidated, a corporation, to California Natural Gas Company, by deed dated September 11, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 191 thereof.

(*wwww*) That certain right of way granted by North American Oil, Consolidated, a corporation, to California Natural Gas Company, by deed dated September 11, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 192 thereof.

(*xxxx*) That certain right of way granted by Marion Oil Company, a corporation, to California Natural Gas Company, by deed dated October 11, 1911, which said deed was on the twenty-sixth day of March, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 264 of Deeds, page 181 thereof.

(*yyyy*) That certain right of way granted by Kern County Land Company, a corporation, to California Natural Gas Company, by deed dated July 5, 1912, which said deed was on the twenty-sixth day of July, 1912, recorded in the office of the county recorder of said county of Kern, in Liber 273 of Deeds, page 158 thereof.

(*zzzz*) That certain right of way granted by American Oilfields Company, a corporation, to California Natural Gas Company, by deed bearing date December 13, 1912, for a pipe line in the northeast quarter of section thirty-two (32), township thirty-two (32) south, range twenty-four (24) east, Mount Diablo base and meridian.

(*aaaaa*) That certain right of way granted by Southern Pacific Land Company, a corporation, to California Natural Gas Company, by an instrument bearing date January 6, 1913, for a pipe line in section twenty-nine (29), township thirty-two (32) south, range twenty-four (24) east, Mount Diablo base and meridian.

(*bbbbb*) That certain right of way granted by Miller & Lux, incorporated, a corporation, to Standard Oil Company, a corporation, by deed dated February 27, 1911, which said deed was on the seventh day of March, 1911, recorded in the office

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of the county recorder of said county of Kern, in Liber 249 of Deeds, page 295 thereof, which said right of way was thereafter assigned by said Standard Oil Company to California Natural Gas Company, by an instrument of transfer bearing date October 21, 1911.

(*ccccc*) That certain right of way granted by John E. Bailey to Standard Oil Company, by deed bearing date November 30, 1910, which said deed was on the ninth day of December, 1910, recorded in the office of the county recorder of said county of Kern, in Liber 243 of Deeds, page 109 thereof, which said right of way was thereafter transferred by said Standard Oil Company to California Natural Gas Company, by an instrument of transfer bearing date October 21, 1911.

(*ddddd*) That certain right of way granted by L. Cohn to Standard Oil Company, by deed dated December 16, 1910, which said deed was on the seventeenth day of December, 1910, recorded in the office of the county recorder of said county of Kern, in Liber 243 of Deeds, page 158 thereof, which said right of way was thereafter assigned by Standard Oil Company to California Natural Gas Company, by an instrument of transfer bearing date October 21, 1911.

(*eeece*) That certain contract bearing date March 21, 1912, between Sunset Railway Company, a corporation, and California Natural Gas Company, and that certain contract bearing date March 21, 1912, between The Atchison, Topeka and Santa Fe Railway Company and California Natural Gas Company, wherein and whereby said Sunset Railway Company and said The Atchison, Topeka and Santa Fe Railway Company severally and individually granted to California Natural Gas Company the right of laying and maintaining pipe lines to be used in the business of carrying oil, water and gas, and to erect and maintain telegraph and telephone lines across the tracks and rights of way of the railroads owned, leased or operated by said two corporations, or either thereof, in the State of California.

(*fffff*) That certain permit bearing date June 19, 1915, from the California Highway Commission to California Natural Gas Company, to install a gas pipe line across the state highway near Oil Junction, in said county of Kern, being its permit No. 71.

(*ggggg*) That certain right of way granted by Honolulu Consolidated Oil Company, a corporation, to California Natural Gas Company, by an instrument bearing date July 22, 1912, for a pipe line along the south line of section eight (8), township thirty-two (32) south, range twenty-four (24) east, Mount Diablo base and meridian.

(*hhhhh*) The following described frame structures on section fourteen (14), township thirty-two (32) south, range twenty-seven (27) east, Mount Diablo base and meridian, in which California Natural Gas Company has a lease hold interest as aforesaid:

A one-story frame structure forty-six feet by fifty-four feet, heretofore occupied by California Natural Gas Company as an office building;

A one-story frame structure eighteen feet by thirty feet, heretofore occupied by California Natural Gas Company as a garage;

A one-story frame structure thirty feet by forty feet, heretofore occupied by California Natural Gas Company as a warehouse.

(*iiiii*) All meters, regulators and other devices heretofore owned or used by said California Natural Gas Company in measuring and delivering gas to its consumers.

(*jjjjj*) All furniture and office equipment and all meters, supplies, tools and other appliances heretofore owned or used by California Natural Gas Company in its business of collecting, transporting and distributing gas.

(*kkkkk*) All other property of whatsoever kind and nature and description, whether real, personal or mixed, tangible or intangible, including moneys on hand and choses in action, of said California Natural Gas Company other than its corporate franchise.

Together with all and singular the tenements, hereditaments and appurtenances unto the foregoing described real property belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

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DECISION No. 3351.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO CONSTRUCT, MAINTAIN AND OPERATE AT GRADE RAILROAD CROSSINGS IN THE CITY OF SAN JOSE AND THE COUNTY OF SANTA CLARA.

Application No. 1966.

Decided May 20, 1916.

The above entitled application contemplates the construction of thirty-five crossings at grade over streets and highways in the city of San Jose and the county of Santa Clara.

Permission to construct crossings granted; provided, the grades at The Alameda be separated, a subway under the tracks being suggested as the most feasible plan; that human and automatic flagman be installed at specified points; that certain of the present existing streets be closed to traffic, the balance of such crossings to be protected by the ordinary crossing sign.

Separation of grades: To permit the construction of a crossing at grade across The Alameda would be in direct contradiction to the Commission's announced policy of gradually abolishing all extremely hazardous crossings.

Apportionment of expenses: Though the railroad company alone made application for permission to construct such crossing, the city will benefit sufficiently from a separation of grades as to warrant its inclusion in a division of the expenses; applicant to stand all damage to its property caused by the construction of the subway and 50 per cent of the expenses, the city of San Jose to stand 35 per cent, the county of Santa Clara or the State Highway Commission, 15 per cent; the San Jose Railroads to stand any expense caused by the moving or replacing of its rails during construction.

Geo. D. Squires, and *Louis O'Neil,* for Applicant.

Earl Lamb, for City of San Jose.

A. L. Hubbard and *John Roll,* for Board of Supervisors, Santa Clara County.

W. M. Sontheimer, for Oak Hill Improvement Association.

W. S. Clayton, for San Jose Chamber of Commerce.

S. S. Tompkins, for Castle Bros., Protestants.

R. Blanchard, for property owners on The Alameda, Protestants.

W. E. Foley, for H. G. Coykendall.

Chas. D. Blaney, for California State Highway Commission.

H. H. Sanborn, for Rosenberg Bros. & Company.

M. H. Robbins, for Union Ice Company.

P. S. Williams, for certain property owners.

Chas. F. Fleming, for Griffin & Skelley Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was filed with the Commission on November 19, 1915. The Southern Pacific Company asks permission to cross at grade

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thirty-five public streets and highways in the city of San Jose and in unincorporated territory in Santa Clara County in the immediate vicinity of the city. Many of the principal streets in the city of San Jose and the most important roads in the county, near the boundaries of the city, are involved in this application, and it is manifestly impossible to describe the entire situation without reference to a map of the city and vicinity and the Southern Pacific tracks in and near San Jose. I shall, therefore, but briefly outline the general layout of the tracks and the streets and shall not attempt in this opinion to describe fully the relation of the streets to each other and to the tracks of Southern Pacific Company, either present or proposed. Elsewhere each of the proposed crossings will be separately considered and described in some detail.

At the present time the main line of the coast division of the Southern Pacific Company enters the city from the northwest near the end of Autumn street; runs eastward across San Pedro, North First, North Second and North Third streets and then turns southerly and follows Fourth street, crossing all east and west streets, through the heart of the city to Reed street, where it enters private right of way and continues in the same general direction to and beyond the Oak Hill Cemetery and a crossing of the state highway on the Monterey road at Schuetzen. The company's line to Niles branches from the main line near its crossing with North Second street and runs out of the city in a northerly direction. The Santa Cruz branch leaves the main line near Polhemus street, north of the city, runs in a southerly direction to Senter street, follows that street throughout its length and enters the city at San Augustine street, where it curves to the west. Then in an almost due south direction parallel with the west boundary of the city and about 50 feet inside the limits it runs to a point near Pine street, where it curves to the west with the city line across San Carlos street.

The operation of the main line on Fourth street is carried on under a fifty-year franchise which expires January 27, 1918. The railroad company has understood for some time past that its franchise on Fourth street would not be renewed upon its expiration, and ten years ago it commenced to secure a right of way along the route it proposed to follow on its new construction and on which it must cross thirty-five streets and highways. In this application the company asks permission to make these crossings at grade.

The new line will follow the route of the present Santa Cruz branch from its junction with the main line near Polhemus street to a point near San Carlos street; there it leaves that branch, curves to the east and continues in a southeasterly direction until it joins the existing main line opposite the Oak Hill Cemetery and north of the Schuetzen Park crossing of the Monterey road.

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The application to cross the streets from Lenzen avenue, the street farthest to the north of those covered by this application, to San Carlos street, covers the construction of additional tracks and the rearrangement of existing tracks, while from San Carlos street south all of the crossings will be new. The proposed crossings at Montgomery and Autumn streets will also be new and will be necessitated by the construction of a wye track to connect the new line with the present main line, which will form the Niles connection from Polhemus street to its junction with the present Niles line near North Second street. The new line, including that portion of the Santa Cruz line which will be used, will be about 4.4 miles in length, while the track to be abandoned is 6,500 feet long. This disparity in the length of the new line and that of the old is occasioned by the need of keeping in use a large portion of the present main line for the Niles branch, and because the present main line south of Reed street, where it is upon private right of way, has some thirteen industries located upon it which must receive service and which will be reached from the new main line at its junction with the old line, or by a connecting track between the two main lines near the Oak Hill Cemetery. The track to be abandoned comprises the present main line between Reed street on the south and Second street on the north. This track, except for a few hundred feet between East Julian street and North Second street, is located in the center of Fourth street and, including the two streets just mentioned, has eleven grade crossings, that is, there are ten streets intersecting Fourth street between Reed and East Julian. These crossings will, of course, no longer exist when the track is removed from Fourth street and it becomes of interest to note that a check of the movement across them, made by the railroad company, recorded 23,208 movements in 12 hours from 6:00 a.m. to 6:00 p.m. During the same day a check was made of the 21 proposed new crossings in the city limits of San Jose, and 11,538 movements were recorded.

When the project outlined above is carried out there will be some 16 regular trains per day over the streets crossed by the Niles connection. On the future main line about 80 regular trains will operate over the street north of San Corlos street, and south o fthat street there will be about 32 regular movements. There will be, in addition, some extra trains, and over some crossings there will be switching varying from occasional switching to continuous switching in the passenger yards, and this will be considered later and in connection with specific streets.

At the first of the five hearings held on this application it appeared that many of the streets for which application to cross has been made were of such a character and were so located that they could be closed, and following that hearing our engineering department made a report

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on each separate street involved in this application and tentatively considered the closing of many of them. A copy of this report was sent to all of the interested parties who entered an appearance at the first hearing, and it served as a basis for discussion at the later hearings. Most of the streets which are to be closed will have their traffic diverted to some adjacent street, and almost all of the changes which will be recommended have been agreed to by representatives of the applicant and the city and the county. In this connection I wish to express my appreciation of the fair and open way in which all the parties discussed these matters with the Commission, and to state my belief that the co-operation of all parties with the Commission in attempting to settle the many questions raised in connection with this application, to the best interest of all concerned, will result in leaving the railroad crossing situation of San Jose in excellent condition, and will greatly increase the safety of those who use the streets.

The application as filed states that the railroad company has applied to the city of San Jose for a franchise to operate a double track railroad over the city streets, and that that application is pending. The franchise has not yet been granted, and at the first hearing counsel for the Southern Pacific stated that if the Commission granted the permission sought herein no franchise would be necessary from the city council. The city attorney contended that the Commission's power in this matter was permissive only, and that when the permission of the Commission was secured the company must still secure franchises before it could legally cross the city streets. It seems to me unnecessary to go into the matter in this place. The Commission's decision would be exactly the same in either event, and to discuss the matter now would not change the existing law nor change the respective rights of the city and the railroad under the law.

No question was raised as to the propriety of granting or refusing this application in toto, and in but one instance did it appear or was it suggested that a change of the line as now located would result in more satisfactory grade crossing conditions, and that matter will be discussed in its proper place in connection with the crossing involved. When the Fourth street franchise expires, the present route, of course, can not be followed. It is absolutely necessary for the Southern Pacific Company to have some route through the city of San Jose which is not too far removed from the business and industrial centers of the city, and this means that many busy and important streets must be crossed.

I shall recommend that this application be granted under the conditions and subject to the modifications set forth in the order herein, and shall now discuss seriatim each of the thirty-five streets and crossings for which application has been made, and shall take them in order from

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north to south, considering in each case the conditions under which the application should be granted.

Lenzen avenue. The crossing of this street is located entirely in Santa Clara County, and although the street does not appear to be of great importance, and representatives of both the Chamber of Commerce and the Southern Pacific agreed at the first hearing that it should be closed, at the later hearings several protests against such a procedure were made by owners of property in the vicinity. The district in and around Lenzen avenue is devoted to the fruit packing industry and considerable street room is needed for the handling of the large teams which haul fruit to and from the packing houses. In addition to this there is a property owner between Senter and Montgomery, with a large frontage on Lenzen avenue, who is entitled to easy access to Stockton avenue, which is the improved road to the city. Permission will, therefore, be granted for the construction of additional tracks across this crossing, and, as the view is considerably obscured, it should be protected by an automatic flagman.

Cinnabar street. The only point raised at the hearings regarding this street, which is in unincorporated territory in Santa Clara County, was in connection with the proper protection to safeguard the crossing. A traffic check taken by the Southern Pacific Company indicates that the crossing is considerably used, and during the fruit shipping season the traffic is much larger than the check indicates. In view of this and the fact that the view of trains is somewhat obscured, I am of the opinion that an automatic flagman should be installed for the protection of this crossing.

Autumn street. This crossing is in the city of San Jose and will be crossed by the Niles connection. The property abutting on the crossing is owned by the Southern Pacific Company, and although it was considered at the first hearing as a street which could properly be closed, I am satisfied that this can not be done without impairing the convenience of those who live or do business in this vicinity and that consequently it should remain open. The crossing is on the Niles connection where the train service will be light and the speed of operation will undoubtedly be slow, so I believe no protection will be needed for it other than the usual crossing sign.

Montgomery street. This crossing is in Santa Clara County. This street, like Autumn, crosses the Niles connection and should probably remain open. There will be not to exceed 16 trains per day over the tract, but the view is somewhat obstructed and I believe an automatic flagman should be installed to afford ample protection.

Julian street. The crossing in existence at this point at the present time is over the single track Santa Cruz line. Under the proposed con-

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struction four tracks will cross the street, and as the view is more or less obstructed, and the traffic will be heavy, I believe it should be protected by an automatic flagman.

San Augustine street. The crossing of San Augustine street is partly in the county and partly in the city. The track crosses the street at its junction with Senter street, and although it is not possible to close the street, the actual crossing will be used very little if at all. For that reason no protection is necessary.

West Santa Clara street, or The Alameda. This crossing is partly within the city and partly within the county, the dividing line being 50 or 60 feet west of the present track. This street is the most important of all those covered by this application. It is known in the city as West Santa Clara Street and in the county as The Alameda, or more generally it is known as The Alameda. It is an east and west street, 100 feet wide, through the central business section of the city and 116 feet wide at the point of crossing, and both in the city and the county it is a highly improved thoroughfare, well paved, well cared for and running through one of the best residence districts in Santa Clara County.

The State Highway Commission has jurisdiction over it from the county line westward, and it forms a connection to Los Gatos and Santa Cruz and western points through the state highway system as well as being the main entrance to San Jose via the county road for the entire country lying west and north of the city of San Jose. San Jose Railroads has a double track on this street and on December 4th, of last year, when a traffic check was made by the Southern Pacific, some 4,150 people in 305 street cars passed over the crossing during the 12 busy hours of the day. A check of other traffic that same day for the same length of time showed 322 automobiles, 763 teams, 1,530 pedestrians, 157 motorcycles and 577 bicycles; a total, including passengers on the street cars, of over 7,800 movements across the tracks in 12 hours. These figures are thought by the city to be low, and there is no question but that a check taken in the summer, especially on a Sunday or a holiday, would show much more traffic; but the figures quoted are sufficient to show the importance of the crossing and the extent of traffic on The Alameda.

There are at the present time two tracks across the street and train movements number about 20 per day. The original proposal of the Southern Pacific Company was to construct on its new line seven tracks across the street, four of which would be in the county and three in the city, and to protect the crossing by a human flagman or by crossing gates. When opposition to the grade crossing developed the company changed its plan to include but four tracks, two passenger and two freight.

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When this new line is in operation there will be over 80 trains per day over this crossing in addition to switching movements. The plan of the Southern Pacific Company contemplates the construction of its passenger yards between The Alameda and Park avenue, 1,900 feet south, and the company has asked to have San Fernando street, about 950 feet south of The Alameda, closed so that a station building can be constructed across it and room can be obtained for switching in the passenger yards. If this scheme were carried out switching in the passenger yards could be done south of The Alameda and switching would be lighter across that street. There are, however, several objections to this plan, one of which is the closing of San Fernando street, as will hereafter appear, and it is impossible to estimate the switching movements which will be made across The Alameda.

The city has taken the attitude that grade should be separated at this point and petitions signed by some 262 people who live along The Alameda, or own property there, have protested against a grade crossing being made. On the other hand a petition representing the entire frontage on The Alameda for some distance east of the track was presented to the Commission, expressing a desire that the crossing should be made at grade. Other owners of property in the vicinity also protested against the crossing being made in any way other than by a grade crossing.

In view of the Commission's well-known attitude toward grade crossings, and its firm belief so often expressed that dangerous grade crossings must eventually be eliminated, it seems needless to say that the Commission will favor a grade separation on The Alameda if there are no physical difficulties in the way, and the expense is not out of proportion to the benefits to be derived from such construction. It is clear that a grade separation should be made at this point, if anywhere in the State, and if the Commission sanctions the construction of a grade crossing in this instance it will be difficult for it to consistently require grade separations elsewhere. We have here a crossing over which from 7,000 to 10,000 people pass daily, and over which there will be upwards of 80 train movements on the track in 24 hours. The street has a car line upon it. It is one of the main arteries of the city and is by far the most important road leading from the city to the west, and one which, it is estimated, forms a direct outlet to 50,000 people living in the western part of the county.

During the course of the hearing several different propositions were made as to the method to be followed in separating grades, and all of these methods were discussed and approximate estimates were made of the cost of all those which appeared feasible.

One of the first proposals was that of raising the track of the Southern Pacific Company some 12 or 13 feet and depressing the street about

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7 feet. To carry out this sort of construction would cost in the neighborhood of $1,000,000.00. All industries located in the vicinity of this crossing would have to raise their spur tracks, and in many cases raise the floors of their buildings, and the cost of this was not included in the estimate. Many of the industries located close to The Alameda would have to reconstruct their buildings and loading platforms, and a high retaining wall would have to be constructed through the city. Still another objection to this scheme is the fact that the ruling grade on the Southern Pacific tracks between San Francisco and San Jose is a five-tenths of one per cent, which is about the grade which the Southern Pacific now has on its line into San Jose from the north. It would be unreasonable, in my judgment, to require this grade to be increased, and to maintain this grade with an elevation of 13 feet at The Alameda the fill would have to be carried for a considerable distance to the north, which would make a grade crossing impossible at Julian street, but would still not leave clearance at that street for a grade separation.

One of the methods proposed of making a grade separation was to retain the present grade of the track and construct a viaduct entirely over the railroad yard. This is probably the cheapest of the grade separation schemes as far as the actual cost of construction is concerned, as it was estimated to cost only about $120,000.00, with 3 per cent grades of approach. The estimated property damage, however, with this construction, was figured to be some $353,000.00. To obtain the clearance of 22 feet from the top of rail to the lowest member of the overhead structure, which has been found to be the minimum clearance consistent with safety and has been specified by the Commission in its general order on the subject of clearances, it would be necessary for the grade of The Alameda to be some 26 feet or 27 feet above the top of rail. A viaduct meeting these requirements would form an unsightly structure and one which I am satisfied would be unsatisfactory to the people of San Jose and Santa Clara County.

A grade separation plan was submitted by the city engineer which involved raising the tracks 6 feet at The Alameda and depressing the street sufficient to make a clearance of 14 feet, which, allowing 4 feet for the depth of the girders, would mean depressing the street nearly 12 feet. The city engineer's estimate of the cost of this type of construction was $100,000.00. No allowance was included in this amount for property damage, nor was any allowance made for raising spur tracks or making the necessary changes in the plants of the industries, which would amount to a considerable sum of money. In addition to this substantial objection the objection mentioned to the first plan, that of raising the grade of the railroad track for some distance north, would also obtain, as the track at Julian street would be too high to enable a

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grade crossing to be made and not high enough to permit of a separation of grades.

The three plans presented by the Southern Pacific Company, by which a grade separation could be made, had as their essential features the maintaining of the tracks at their present grade and depressing the street to secure the proper clearance. These plans were made on three bases, the cost of the subway proper being the same in all three cases, and estimates were made on all three of these schemes. The total cost of the subway proper was estimated by the company to be $99,250.00. With grades of approach at 3 per cent the cost of approaches was estimated to be $279,350.00, and property damage was estimated to be $100,000.00, making a total cost for the subway and approaches on 3 per cent grades, including property damage, of $478,600.00. With 5 per cent approaches the cost of the subway proper was the same; the cost of approaches was $144,010.00 and the property damage was estimated at $60,000.00, making the total $303,260.00. With 7 per cent grade the cost of the subway was the same; the cost of approaches was estimated to be $83,630.00 and the property damage $45,000.00, making a total cost of $227,880.00.

The plans and estimates which have just been discussed were presented at the earlier hearings when it became apparent that the most feasible plan of construction was one by which the Southern Pacific tracks would remain in their present grade, or with a maximum elevation of 2 feet and the separation made by depressing the street, and both the Southern Pacific Company and the city were asked to file revised plans covering the cost of a subway on a 5 per cent grade on that basis. The 5 per cent grade was decided upon because 7 per cent grades were thought to be too steep for this location, and on the 3 per cent grade the cost, including the property damage, would be much greater than the benefit to be derived from a grade 2 per cent lighter than the 5 per cent grade.

Since the last hearing these plans have been filed by both the city and the Southern Pacific Company. The plan of the Southern Pacific Company shows a subway with a width in the clear of 59 feet. The bridge provides for 18 tracks and is supported on abutments and center columns. The grade of approach is 477 feet long to the west and 384 feet long to the east. On each side of the approaches at the present elevation of the road are roadways 18 feet wide and sidewalks 4 feet in width. Stockton avenue, which joins The Alameda about 200 feet west of the track intersection, is taken care of by depressing that street at its connection with the west approach of the subway, and carrying the approach back 296 feet on a 5 per cent grade until it meets the present grade of Stockton street. A roadway of 42 feet is provided in this approach with two 4-foot sidewalks, and a road at the present elevation

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of Stockton will remain on either side of the approach. These roads will be 21 feet wide with 4-foot sidewalks. On this plan the tracks of the San Jose Railroads are located next to the sidewalk on the extreme outer edge of the subway and approaches. The cost of this entire scheme, not including property damage, is estimated by the railroad company to be about $230,000.00 and this estimate has been checked by our engineering department and found to be reasonable.

The plan of the city engineer is substantially similar to that of the Southern Pacific Company. The subway and approaches, as in the plan of the railroad company, are about 59 feet in width, including two 4-foot sidewalks on either side. The tracks of the San Jose Railroads with 11-foot centers are on the extreme south side of the subway and approaches. Stockton avenue, under this plan, is not depressed, and traffic coming from Stockton avenue is to be cared for by turning it, first west at the junction of Stockton avenue with The Alameda to the west entrance of the subway and then east through the subway. The estimate made by the city engineer, which our engineers have found to be substantially correct, is $200,748.00, without property damage.

I am satisfied that the grade separation should be made on the basis of these plans, that is, the tracks of the Southern Pacific Company should remain in their present elevation, or with a raise not exceeding 2 feet, and the necessary clearance should be obtained by depressing the street. The difference between the plan presented by the city and the later plan of the Southern Pacific Company is one of detail, and a decision as to which is the better can not be made from the data at hand, but must be had after more complete plans are available and complete estimates and a careful canvass made of the extent of the property damaged. The item of property damage is exceedingly important in a proposition of this sort, and it is impossible to determine at this time what it will amount to on each of these two schemes. In the first estimates presented, the Southern Pacific Company estimated the property damage on a 5 per cent subway plan, with approximately the same frontage effected, to be $60,000.00 on the assumption that the assessed valuation placed on the property would, on the average, be the same as the property damage caused by this construction.

Another important reason why the details of this plan can not now be definitely decided is the fact that the Southern Pacific Company proposes to locate a station in the vicinity of The Alameda, and its plans are not far enough matured so the exact type of subway structure can be outlined, and these plans, of course, can not be worked out until the matters pending in this application are disposed of.

Either of the two plans last discussed is entirely satisfactory to the Commission and which plan shall be adopted may be left to the future and covered by a supplemental order if the interested parties are unable

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to unite on one plan or agree on the details. There are a few suggestions, however, I wish to make. Neither of the plans provide for a crossing for road traffic over the subway on the west side. If such provision were made it would be possible to go from one side of the street to the other without a long detour, and it would do away with the need for turning vehicles on the comparatively narrow roadways which will remain after the approaches are constructed. For another matter the junction of Stockton road and The Alameda makes an acute angle on the west which should be eliminated by securing one or more lots on this corner and making them part of Stockton avenue. It would be desirable to do this on either plan. If the plan of the city engineer is followed it will greatly decrease the difficulty in going from Stockton avenue into the subway, and if the plan of the Southern Pacific is followed and Stockton avenue is depressed, the difference in elevation to be overcome between the grade of the subway and the present grade of Stockton avenue will be lessened and the sharp angle avoided. If it should be found impossible to do this and the general plan of the railroad is adopted I believe that the location of the San Jose Railroad's tracks should be as shown by the city. The two approaches, namely, on Alameda and Stockton, will intersect at such a sharp angle that it will be impossible to see approaching trains, and the tracks for that reason should be on the south side of the subway, so it will not be necessary for vehicles to cross them. If the general plan of the city engineer is adopted the car tracks could be located either as shown on the plan of the city or as shown on the Southern Pacific plan without affecting the general scheme in any way.

Mention was made of but one physical difficulty in the way of this construction and that is the question of drainage. It appeared at one of the hearings that The Alameda, at the point of crossing, was subject to overflow which would make it impossible to keep this subway in use. Subsequent witnesses, some of them testifying from a knowledge of conditions extending over fifteen years, were of the opinion that a condition of flood waters making it impossible to use this subway would arise on rare occasions, and that at other times the subway could be amply drained by the installation of a pump, and I can draw no other conclusion from the testimony. Having decided that there are no physical difficulties in the way of this construction, and that an expenditure of $300,000.00 for the purpose of separating grades at this very important crossing is not out of proportion to the benefit to be derived, the question then arises as to the division of expense.

This is one of the most difficult matters which a public utility body is called upon to determine. It is obvious that it can not be decided by any formula, and that it is impossible to state in dollars and cents the exact benefits each party interested will derive from a grade separation,

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but it should be clearly apparent that the interest is mutual and all will benefit to some extent. There are five parties interested in this crossing —Southern Pacific Company, City of San Jose, Santa Clara County, the State Highway Commission and the San Jose Railroads. I shall briefly discuss the attitude of these five parties towards this grade separation.

The Southern Pacific Company opposes the separation of grades, but believes if the Railroad Commission orders a separation made the expense should be divided.

The officials of San Jose are unanimous that the separation should be made, but they are unwilling to assume any expense connected therewith, as the following resolution, passed by the city council on March 28th, and filed with the Commission after the last hearing, clearly indicates:

> "Whereas the Southern Pacific Company has applied for the privilege of laying four or more double tracks across The Alameda; and
>
> Whereas it now appears from the hearing in the presence of Mr. Commissioner Gordon that a separation of grades will be hereby necessitated; therefore be it
>
> *Resolved,* That it be the sense of this council that said proposed improvements are for the benefit of, and they are required by said railroad company, and further, that the City of San Jose be required to assume no portion of said expense."

It is the contention of the city that the Southern Pacific Company is attempting to create a hazardous condition at a crossing at which a minimum hazard now exists, and that the company should stand the entire expense necessary to avoid creating this hazard.

The attitude of the board of supervisors is not so clear. The chairman of the board, however, who stated that he believed he represented the sentiment of the board, is of the opinion that the county should do nothing in this matter, as the road has been turned over to the State Highway Commission, and that a grade separation is not needed here.

President Blaney, of the State Highway Commission, on the other hand, believes that the grades should be separated at this point, and he states that the Highway Commission would be willing to stand part of the necessary expense, but that the Highway Commission is absolutely without funds which it could devote to this purpose.

The San Jose Railroads is not greatly interested in this application. Its general manager stated that he would prefer to cut his line in two at this point rather than stand any expense in connection with the grade separation.

The attitude of the property owners along The Alameda is not unanimous. Those who own property close to this crossing, which would be affected by the construction of any type of grade separation,

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are generally of the opinion that no separation should be made, while those who are some distance away are insistent upon a separation of grades.

I have indicated previously that I am of the opinion that grades should be separated at this point. The need for separation is manifest at this time. As the city of San Jose grows and the population of the county increases it will be much more apparent. The whole track layout scheme of the Southern Pacific Company depends upon the disposition of this matter, and if grades are not separated now the grade crossing will remain for many years in the future. If it were decided that no grade separation should take place on The Alameda, the track layout is such that enough switching would be done across San Fernando street, the next street to the south, so that street would be closed regardless of whether the Commission ordered it closed or the city voluntarily closed it. That the whole track plan in the vicinity of The Alameda depends on the disposition of this matter is plain from the fact that 18 tracks will be built across The Alameda if grades are separated, while but four would cross that street if a grade crossing were permitted.

The practice of courts and commissions in distributing expenses incident to grade separation is variable. In the past it has been customary for cities and counties which have had the power to do so to assess all the expense against the carriers. Recently, however, it has come to be generally accepted that the existence of grade crossings is something for which the carriers and the public are mutually responsible, and that both parties should be mutually responsible for their elimination, and in accordance with this idea public service commissions and courts require a division of expense of grade separations on some basis which appears to them to be fair and equitable.

In this instance the Southern Pacific Company is unquestionably creating an additional hazard over that now existing at The Alameda; but there is a crossing now in existence at this point, and the additional hazard created is brought about by the attitude of the city in refusing to allow the railroad company to continue to operate on Fourth street, and it may be said that by this action the city merely transfers from Fourth street to The Alameda an existing hazard. The situation here can not be compared with that in which an entirely new crossing is sought. It more resembles an action before the Commission to abolish an existing crossing, and there is no question that if this matter were before the Commission on an application for a separation of grades the city would be required to stand a substantial part of the cost. It does not appear to me to be fair in this case, where the Southern Pacific must have this crossing, to insist that it pay the full cost, any more than it would appear to me to be fair, if conditions were reversed, for the Southern Pacific Company to take advantage of the needs of the city.

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The Commission in this matter has the power to require the Southern Pacific Company to pay for the full cost of this construction. It has no such power over the city of San Jose, Santa Clara County or the State Highway Commission. This, nevertheless, is not a reason why the Commission should make an order which it would not make if its powers were equal over the railroad company and the public bodies. In other words, to my mind it is not fair and equitable that the Commission should, simply because it has the power, compel the railroad company to assume the entire expense for the construction of a facility which is beneficial not only to the railroad company but also to the county and the city.

The status of the county in relation to this road is not exactly clear. Whether in a case of this sort, where the State Highway Commission has taken over a part of the county highway system, an expense in connection with grade separations should be borne by the Highway Commission, was not made apparent; but it is unnecessary to go into the matter at this time, as it can be left for the two parties to determine without affecting in any way such orders as the Commission may make. The county's interest is plain, however, regardless of who is legally responsible for any expense to be incurred here. The construction of a subway at The Alameda would enable the residents in the county to go to and from the city of San Jose via The Alameda with perfect safety and without delay, and the present grade crossing, which is more or less dangerous as all grade crossings are, would be eliminated.

The interest of the San Jose Railroads is not great. Its tracks cross The Alameda and it might continue to use a grade crossing of The Alameda in safety after additional tracks were built because of the precautions taken—precautions which are not taken by drivers of vehicles and pedestrians. At the same time a crossing at separated grades is absolutely safe, and it is only fair that the company should assume some portion of the expense.

I believe the following division of expense, all things taken into consideration, to be fair, and permission to cross will be granted substantially on these terms:

Any damage accruing to the property of the Southern Pacific Company by reason of the construction of this subway should be borne by the Southern Pacific Company. The expense of taking care of its tracks during the course of construction and of relaying its tracks in the subway after the construction is completed, should be borne by the San Jose Railroads.

All other expenses except those two above mentioned, to be incured in the construction of this subway, and except the work in connection with the tracks of Southern Pacific Company, should be deemed part of the expense of this crossing and should be divided as follows: 50 per

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cent should be borne by Southern Pacific Company, 35 per cent by the city of San Jose and 15 per cent by Santa Clara County, or by the State Highway Commission, as the legal interests of these two parties may hereafter appear.

San Fernando street. This crossing, like that of the crossing on Alameda street, is partly in the city and partly in the county. Under the new project the passenger yards are to be built and the station is to be constructed somewhere in the vicinity of Santa Clara and San Fernando streets. It is the wish of the company to construct the yards, as outlined in the discussion of Alameda street, close San Fernando and build the station across that street. For station stops, with a maximum train of 14 cars, space will be needed greater than the distance between any two streets in this vicinity. For that reason and because of passenger train switching across San Fernando, as well as on account of the need for additional room in which to build the station, the railroad company desires San Fernando street closed.

This street is not particularly important and traffic over it is not heavy. At the same time the nearest streets are some distance away, Alameda being 938 feet north and Park street approximately the same distance to the south, and San Fernando can not be closed without causing considerable inconvenience, as several witnesses testified at the hearings, and as several protests filed with the Commission indicate. The Griffin & Skelley Company have constructed a new packing plant on San Fernando and Bush streets, and to reach that plant, if San Fernando street were closed, it would be necessary for many of the fruit teams which deliver there to make a detour of these long blocks. With a grade separation made on The Alameda the need for closing San Fernando will be largely removed. The Southern Pacific Company will have ample room from this street to San Augustine to handle its trains and do its switching, as the station will probably be nearer that street than San Fernando, and it would be possible to do the switching either from north of the station or from a point far enough north of San Fernando so the latter street would not be blocked the greater part of the time, although, undoubtedly, considerable switching will still be done over it. The city attorney desires to have the street remain open if possible, while the board of supervisors seem perfectly willing to have it closed.

The situation at San Fernando street, to my mind, makes it more than ever clear that it is desirable to effect a grade separation at The Alameda. If a grade crossing were permitted on that street, all of the switching of passenger trains would be done across San Fernando, and the station would be so located that the longer trains operated by the Southern Pacific Company would block it when they made stops, with a result that it would be more or less blocked during the day, and during such

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time as it was not blocked the switching would make it so exceedingly dangerous that it would have to be closed for safety reasons. In view of the fact, however, that grade separation is to be made at Alameda this street can remain open and it should be protected by a human flagman 24 hours of the day.

Park avenue. This crossing is partly in the city and partly in the county. There are three tracks at the crossing at the present time, and there will be some 18 tracks when the new construction is completed. A street car line crosses the tracks on Park avenue, and the crossing should be protected by a human flagman 24 hours a day.

Pine street. This street is partly in the city and partly in the county. It is a short street and is apparently unimportant. Southern Pacific Company owns the abutting property between Dupont and Kearney, and is anxious to have it closed. There seems to be no objection to doing this, and no hardship will be occasioned if it is done. Permission will, therefore, be granted to cross the street only upon condition that barriers are lawfully erected across the company's right of way so that the public can not use the crossing.

San Carlos street. This crossing is entirely in the city of San Jose. There are four tracks at present across the street and eleven will cross it when the new line is built. The crossing is near the junction of the new line with the Santa Cruz branch, and the crossings of each of these lines of railroad form crossings independent of each other. There is a car line upon the street, and the traffic is extensive, and for that reason the crossing should be well protected. Because of the fact that the two crossings are not together, two human flagmen should be employed and each crossing should be protected by a flagman 24 hours per day. A member of the city council of San Jose suggested that the Southern Pacific Company should be required to build an overhead crossing at this point. However desirable it may be to bring about grade separations, it should be clear from the discussion in regard to Alameda street that the matter of expense is one which must be seriously considered and one which prevents separations being made at this time at any but the most important crossings. The physical difficulties in the way of grade separation here are many, and as several other crossings are of more importance, it seems unnecessary to discuss this matter further.

San Salvador street. This is quite an important street in the city. There will be four tracks across it on the new construction, and it should be protected by a human flagman for 24 hours a day.

Naglee avenue. This crossing is entirely in the city of San Jose, and the street does not appear to be of much importance at the point at which the crossing is proposed. It was suggested at the hearing that it should be closed across the track, and as the Southern Pacific Company

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owns the abutting property for some distance on each side of the crossing, it appears to be very reasonable that this should be done. It was suggested that if a road were constructed through property owned by Southern Pacific Company on the north side of the proposed track between Naglee avenue and Home street, the closing of the street across the tracks would occasion no inconvenience whatever. I believe the applicant should be granted permission to construct the tracks across the street only upon condition that traffic be lawfully blocked across them, and that the street be constructed as outlined above and dedicated to the city of San Jose.

Home street. The crossing of Home street is in the city of San Jose. A check of traffic across it for 12 hours on December 6, 1915, disclosed 120 movements. With the closing of Naglee avenue some additional traffic will undoubtedly use it, and as there is an obstruction at one corner of the crossing I believe it should be protected by an automatic flagman.

Harrison street. This street is in the city of San Jose, and although it has been dedicated it has not been opened for public use. The Southern Pacific Company owns the abutting property for some distance south, and the street should be closed. This suggestion was made by Southern Pacific Company, approved by the city, and will be made a condition in the order.

Bird avenue. This crossing is in the city of San Jose and is quite an important street. A car line occupies it and a traffic check made on December 6th disclosed some 436 movements over it. It should be protected by a human flagman during 24 hours in the day.

Jerome street. This crossing is in the city of San Jose and it is a street of comparatively little importance. If closed but little inconvenience would result to those who live upon it or who go to and from residences along it. If a street is constructed parallel with the proposed track on the north thereof to connect Bird street with Jerome street, I am of the opinion that the crossing can be closed without inconvenience.

Martin avenue. This crossing is in the city of San Jose. The portion of the street crossed by the proposed track extends but 60 feet south from Jerome street, and the Southern Pacific Company owns the abutting property on three sides. No inconvenience will be occasioned by its being closed, and it should be so closed when the track is built across it.

Fuller avenue. The crossing of this avenue is in the city of San Jose. Although the railroad company owns the property abutting the crossing for some distance on either side, and it appeared at the earlier hearings that the street should be closed, the later hearings developed the fact that those who live on the westerly side of the track use the car service on Delmas avenue, to the east of the track, and that this

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crossing is needed for their convenience. An automatic flagman should be installed for the protection of traffic at this crossing.

Delmas avenue. This crossing is in the city of San Jose. It is occupied by a street car line, and on the day in which the Southern Pacific made a check on the traffic there were about 1,200 movements across it. It was suggested that the grades be separated at this point, but aside from the difficulties of bringing about grade separations which were mentioned in the discussion of other streets, any form of grade separation here would interfere with the intersecting streets, and the suggestion to effect a grade separation at this point brought several protests from the residents of these streets. I believe that the crossing will be comparatively safe if protected by human flagman 24 hours in the day, and permission to cross will be granted subject to that condition.

Hull street. This crossing will be in the city of San Jose. It will cross the street about at its intersection with Delmas avenue. If a street is built north of the track to connect Delmas and Hull, it will do away with two crossings of the track for vehicle drivers and others who wish to go from Hull street to Delmas. As the Southern Pacific Company owns the property necessary to make this road, I am of the opinion that the company should construct such a road and dedicate it, when constructed, to the city. Permission to cross Hull street will be granted only upon this condition.

Chapin street. This crossing is in the city of San Jose and is of considerable importance. It will be necessary for the street to remain open, and traffic should be protected by the installation of an automatic flagman.

Atlanta street. This crossing is in the city of San Jose. The street stub-ends at Guadalupe Creek, not far from the crossing, and there are no houses between the creek and Chapin street. The railroad company owns all the abutting property between these points and is anxious to have the street closed. Inasmuch as no property will be damaged and no inconvenience suffered by doing this it should, of course, be done.

Memphis street. This crossing is in the city of San Jose. The street is even of less importance than Atlanta street, which it intersects at right angles near Guadalupe Creek. The Southern Pacific Company owns the abutting property on both sides of the street for its entire length and the street should, of course, be closed.

Willow street. This street is in Santa Clara County. It is occupied by a car line and a check in December showed 600 movements across it in 12 hours. It should undoubtedly be protected by a human flagman for 24 hours.

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Lelong street. The proposed crossing at Lelong street is in the county and will be near the intersection of that street with Willow. Although this street is not of great importance, it serves as the most convenient crossing for a number of people living south from the proposed track and probably can not be conveniently closed. The crossing can be much improved by grading a street on the corner of the lot northeasterly from the crossing, and by building a street parallel with the railroad track and on the south side of it between Willow and Lelong streets. The construction of the latter street will make it possible for traffic to go from Lelong street to Willow street without crossing the track, whereas, without it, it would be necessary to cross the track twice. The property necessary to make both of these changes is owned by the Southern Pacific Company and I believe that it should make the necessary improvements and dedicate them to the county. With these crossings made there will be no obstructions to the view, and as this crossing is close to Willow the flagman on that street can protect the Lelong street crossing also, so no protection will be ordered specifically for this crossing.

Bartlett street. This crossing is in the city of San Jose. The street is not important, and as the Southern Pacific Company owns all the abutting property between Bartlett and near its terminus on Goodyear street, undoubtedly this street should be closed at its junction with the proposed track; but for the future convenience of those who will live there and have occasion to use the streets in this vicinity, a street should be constructed by the railroad company, and dedicated to the city, on the northeasterly side of the track between Bartlett and Goodyear.

Goodyear street. This crossing is in the city of San Jose, and although it is not an important street, and the Southern Pacific Company, which owns the abutting property on both sides of the crossing for a considerable distance, desires it closed, it is unquestionably the most convenient route for some property owners on the southwest side of the track and should remain open, although no protection will be needed.

Sunnyside avenue. This crossing is in the city of San Jose. The track crosses Sunnyside avenue at its intersection with Lick avenue. Although the country served by this street is not large, Sunnyside is the only outlet for the people who live in its immediate vicinity, and since traffic from it is mostly to the north some means of crossing the street should be provided. I am unwilling to recommend two crossings so close together as Lick and Sunnyside, and I believe that one crossing at the junction of these two roads will amply serve public convenience. This crossing should be a right-angle crossing midway between the center line of Lick avenue and the center line of Sunnyside avenue.

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Permission to cross Sunnyside avenue will be made contingent upon a crossing of this kind being constructed.

Lick avenue. This crossing is in the city of San Jose. Lick avenue is a street running in a general northerly and southerly direction. Traffic over it at the present time is exceedingly light, but it forms the most direct route to the city and serves considerable acreage to the south of the crossing. For that reason it is necessary that a crossing should be maintained here, and one should be constructed in accordance with the suggestion made in connection with Sunnyside avenue. There should also be constructed a road on the south side of the track between Sunnyside avenue and Lick avenue so traffic from Sunnyside avenue can travel to Almaden avenue without crossing the track. The Southern Pacific Company owns the necessary right of way to make this street, and it should be made and dedicated to the city by the company.

Floyd street. This crossing is in the city of San Jose and is short and unimportant. Barriers should be legally erected across the street and a road constructed northeast of the track over the Southern Pacific Company's right of way to Palm street. This road should be built by the railroad company and dedicated to the city and county.

Palm street. Palm street is in Santa Clara County at the point of crossing and stub-ends at Almaden avenue about 100 feet from the point where the proposed track will cross Palm street. This street should be closed across the track, and the construction of a road on the north side of the track, mentioned in connection with the previous street, will serve to amply and conveniently care for traffic. There should also be a street constructed by the railroad company on its property from Palm street to Almaden avenue on the north side of the track, and this street should be dedicated to the county.

Almaden avenue. This is quite an important county road, and as the view is obscured at several of the corners it should be protected by an automatic flagman.

Almaden road. This crossing is in Santa Clara County and has considerable traffic over it. Two checks taken on different days disclosed 657 and 725 movements. It is 75 feet wide and next to the Monterey road is one of the most important roads in this section of the country. Some protection should undoubtedly be afforded here, but, as the obstructions will not be great and the street is wide, I believe that an automatic flagman will afford ample protection for some time to come. This flagman should be located in the center of the road where it will be visible for some distance in both directions along the road from the crossing.

Monterey road. The application covers a crossing of the Monterey road in the county, at a point 250 feet north of the junction of that road

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with Stone avenue. The present main line of the Southern Pacific Company is some 300 feet east of the located line at this point and the two lines come together about 1,500 feet south of this crossing. On this old line south of this junction there are two dangerous crossings within half a mile. One is the Tully road, where the track is crossed at right angles, and the second is the Monterey road, where the track crosses at an exceedingly sharp angle and forms a very dangerous grade crossing known as the Schuetzen Park crossing. Stone avenue joins the Monterey road on the west and will not be crossed directly by the proposed line, although any traffic from Stone avenue going in either direction along the Monterey road would have to cross the main line track.

Before this application was filed and while the railroad company was negotiating with the city for a franchise, a protest was received by the Commission from representatives of the Oak Hill Cemetery, which is located immediately south of Stone avenue and west of the Monterey road, against a grade crossing being made at this point. The objections were considered at the hearings and three suggested changes in plans were considered. The third of these plans, however, would not materially change conditions at the cemetery.

The first was that the located line of the railroad should be changed, swing south of the cemetery and join the present main line some 1½ miles farther south than the junction proposed at Lick. This is not satisfactory to the Southern Pacific Company for the reason that the switch movements between the industries on the line to be abandoned south of Reed street and north of the present proposed junction, must be made over the present main line. If the line were built as proposed this would necessitate additional switching movements of some 3 miles every time the industries in the vicinity of these streets were served, which would result in delay and would add considerably to the switching expense of the company. If this plan were followed the construction expense would be largely increased and the same favorable alignment could not be secured. The suggested line would be 1.5 miles longer than the line as located and the cost of grading this additional mileage would be considerable; one cut, it was estimated, would cost $40,000.00 But the most serious objection to such an extensive change of alignment is in connection with the purchase of the additional right of way. The company has been ten years securing the right of way for the line as located and has spent $986,000.00 for it. If the line were changed to go back of the cemetery, over 2.5 miles of the right of way now owned by the company would be of no use for this construction, and over four miles of additional right of way would have to be purchased over a route which would be publicly known and which, as a consequence of this knowledge, would cost the company a price considerably higher than the market value of the land.

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The second suggestion was that a grade separation be made at the proposed crossing by raising the Monterey road or depressing the track, or by a combination of both of these methods, and that Stone avenue and the entrance to the cemetery be provided with grade separations at the same time. At the lowest estimate, using the cheapest form of construction, a crossing with separated grades at this point would cost considerable in excess of $35,000.00, and even if this were done there would still remain in this immediate vicinity two grade crossings (Tully road and Schuetzen Park), described by one witness as being "spattered by human blood" from the number of accidents which have taken place upon them.

The third suggestion is to my mind the only feasible and reasonable solution of this matter. It can be seen from the previous description that the Monterey road roughly forms the chord of an arc made by the railroad, and that this chord intersects the arc in two points; the southern intersection being the Schuetzen Park crossing, and the northern extremity the crossing now proposed. This arc is also intersected by the Tully road which joins the Monterey road but does not cross it, 1,300 feet south of the proposed crossing. The Monterey road has been taken over by the State Highway Commission. It was suggested that the proposed main line of the Southern Pacific be located on the present Monterey road, and that this road be followed from a point near where the track would cross it under the present location to where the road now crosses the Southern Pacific Company's rails at Schuetzen Park. In exchange for the right of way now occupied by the Monterey road, it was suggested that the Southern Pacific Company could construct a highway similar in type, and satisfactory to the State Highway Commission, on its present right of way, and deed that right of way to the Highway Commission. In other words, the railroad would run on the chord, and the highway on the arc, and three grade crossings would be eliminated.

This matter was taken up with President Blaney of the State Highway Commission, who advised the Commission, by letter, of the State Highway Commission's attitude as follows:

> "In reply I would say that this Commission is most heartily in favor of the elimination of such crossings and would be glad to favor an exchange of rights of way, provided the interests of the State of California and of the traveling public are properly safeguarded.
>
> In view of the many bad accidents and loss of life which have already occurred at some of these crossings, we sincerely trust that they may be properly eliminated, and think that such a solution would be a remarkable achievement."

Mr. Blaney further testified at the hearings in regard to this matter and was enthusiastic over the proposed change.

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It seems to me to be in every way desirable. The present Schuetzen Park crossing and the Tully road crossing will be entirely eliminated and it will be unnecessary to have a grade crossing at the location now proposed. The grade crossing of Stone avenue will still remain, and it will also be necessary for funerals using the Oak Hill Cemetery to cross at Stone avenue at grade, but since the traffic on Stone avenue is light and the traffic to the cemetery is confined to four or five funerals per day, while traffic on the Monterey road amounts to 4,500 movements in 12 hours, there can be no comparison between the situations which would exist if this were made and that which would obtain if the plans contemplated in the application were carried out. It will cost the Southern Pacific Company some $21,000.00 to make the change proposed, but I know of no other place in the State where this money can be expended to such good advantage in safeguarding human life. I believe that a human flagman should be placed at the intersection of Stone avenue with the proposed track during the hours in which funerals use the cemetery, and I am satisfied that such an arrangement will safeguard the users of this crossing.

Permission will not be granted the applicant to cross the Monterey road, but the order will grant the company the right to cross Stone avenue at grade, provided a human flagman is installed for the protection of the crossing and a connection is graded from Stone avenue and the cemetery entrance to the highway in its proposed location.

In the foregoing discussion of the streets to be crossed many changes have been suggested which will make considerable difference in the traffic movements on the streets affected by this new construction of the Southern Pacific Company. It is obviously impossible to determine in advance just what this traffic will amount to or just how it will be diverted from one street to another. I believe, for that reason, the Commission should reserve the right to make such further orders in regard to this application as may appear to it to be desirable, and particularly in the matter of protection. After this change is carried out it may be found that some crossings for which no protection has been ordered will need protection of some sort, or that crossings for which automatic flagmen have been required will need a more efficient form of protection, and the Commission should have the right to order such changes made without a further hearing.

I recommend the following form of order:

ORDER.

Southern Pacific Company, having applied to the Railroad Commission for permission to cross thirty-five (35) streets and public highways at grade in the city of San Jose and Santa Clara County, California, and unincorporated territory in the vicinity of San Jose in Santa Clara County, and a public hearing having been held and it appearing that

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this application should, in part, be granted subject to certain conditions, and that permission to cross West Santa Clara street, or The Alameda, should be granted only upon condition that the grades be separated,

It is hereby ordered that permission be and the same hereby is granted Southern Pacific Company to construct its tracks at grade across the following streets and highways in the city of San Jose and in Santa Clara County: Lenzen avenue, Cinnabar street, Autumn street, Montgomery street, Julian street, San Augustine street, San Fernando street, Park avenue, Pine street, San Carlos street, San Salvador street, Naglee avenue, Home street, Harrison street, Bird avenue, Jerome avenue, Martin avenue, Fuller avenue, Delmas avenue, Hull street, Chapin street, Atlanta street, Memphis street, Willow street, Lelong street, Bartlett street, Goodyear street, Sunnyside avenue, Lick avenue, Floyd street, Palm street, Almaden avenue, Almaden road and Stone avenue.

This permission is granted subject to the following conditions:

(1) The entire expense of constructing the crossings shall be borne by the applicant.

(2) The expense of maintaining the crossings thereafter in good and first-class condition for the safe and convenient use of the public shall be borne by applicant.

(3) Grades of approach shall not exceed four (4) per cent, and the crossings shall in every way be made safe for the passage thereover of vehicles and other road traffic. All crossings for which protection has not otherwise been ordered shall be protected by suitable crossing signs.

(4) The following streets shall be protected by automatic flagmen of a type approved by the Commission: Lenzen avenue, Cinnabar street, Montgomery street, Julian street, Home street, Fuller avenue, Chapin street, Almaden avenue and Almaden road. The expense of installing these flagmen and the expense of their maintenance thereafter shall be borne by the applicant.

(5) The crossings of the following streets shall be protected by a human flagman for 24 hours a day: San Fernando street, Park avenue, San Salvador street, Bird avenue, Delmas avenue and Willow street.

(6) The crossing of San Carlos street shall be protected by two human flagmen for 24 hours a day.

(7) Barriers shall be lawfully erected by applicant at its right of way across the following streets so the crossings can not be used as public crossings: Pine street, Naglee avenue, Harrison street, Jerome street, Martin avenue, Floyd street, Palm street, Atlanta street, Memphis street and Bartlett street.

(8) Applicant shall construct a road between Naglee avenue and Home street on the north side of its right of way and shall dedicate same to the city of San Jose.

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(9) Applicant shall construct a road parallel with its right of way and north thereof between Bird street and Jerome street and dedicate that street to the city of San Jose.

(10) Applicant shall construct a street parallel with its right of way and on the north thereof between Delmas avenue and Hull street and dedicate same to the city of San Jose.

(11) Permission to cross Lelong street is granted upon the condition that a street be graded on the corner of the lot northeasterly from crossing, and that a street be built parallel with the railroad reservation on the south side of it between Willow avenue and Lelong street, and that these streets be dedicated to the city of San Jose.

(12) Applicant shall construct a street on the northeast side of its right of way between Bartlett street and Goodyear street and dedicate same to the city of San Jose.

(13) Permission to cross Sunnyside avenue is granted upon condition that this crossing be constructed at right angles across the track midway between the center line of Sunnyside avenue and Lick avenue.

(14) Permission is granted for the crossing of Lick avenue, subject to the condition mentioned above, and upon the further condition that a street be graded on the south side of the track between Sunnyside avenue and Lick avenue and dedicated to the city of San Jose.

(15) Applicant shall construct a street from Floyd street to Almaden avenue on the north side of its track and dedicate this street to the county.

(16) The automatic flagman to be erected for the protection of Almaden road shall be installed in the middle of the highway.

(17) Permission to cross Stone avenue is granted only upon condition that the crossing of Tully road and the crossing known as the Schuetzen Park crossing of the present main line of the Southern Pacific Company, be closed and abandoned as public highway crossings. Applicant shall install a human flagman at this crossing during the hours the Oak Hill Cemetery is open.

It is hereby further ordered that the crossing at West Santa Clara street, or The Alameda, shall be made by separating grades substantially in accordance with the revised plans for grade separation filed with the Commission by applicant, or with the plans filed by the city of San Jose. The expense of this separation shall be borne as follows:

(1) Damage accruing to the property of Southern Pacific Company by reason of the construction of this subway shall be borne by Southern Pacific Company.

(2) The expense of caring for its tracks during the course of construction and laying its tracks in the subway after its completion, together with all expenses incident thereto, shall be borne by San Jose Railroads. All other expense except that in connection with the track

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work of the Southern Pacific Company, shall be borne fifty (50) per cent by Southern Pacific Company, thirty-five (35) per cent by City of San Jose and fifteen (15) per cent by Santa Clara County or the State Highway Commission, as the legal rights in the premises of the two latter parties may hereafter appear.

The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of April, 1916.

DECISION No. 3352.

IN THE MATTER OF THE APPLICATION OF ELK GROVE MUTUAL TELEPHONE ASSOCIATION FOR AN ORDER AUTHORIZING INCREASE IN TELEPHONE RATES.

Application No. 2208.

Decided May 22, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The applicant in the above entitled proceeding having petitioned the Commission for permission to withdraw this application,

It is hereby ordered that the application herein be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 22d day of May, 1916.

DECISION No. 3353.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY AND THE FRESNO FLUME AND LUMBER COMPANY FOR AUTHORIZATION OF PROPOSED SALE OF TEN SHARES OF THE CAPITAL STOCK OF THE FRESNO CITY RAILWAY COMPANY TO THE SOUTHERN PACIFIC COMPANY.

Application No. 2278.

Decided May 22, 1916.

REPORT OF THE COMMISSION.

Southern Pacific Company having asked the authority of this Commission to purchase from Fresno Flume and Lumber Company for the

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sum of $250.00, ten shares of the capital stock of Fresno City Railway Company of the par value of $100.00 per share, and Fresno Flume and Lumber Company having joined in the application, and it appearing to the Commission that this is not a case in which a hearing is necessary and that the application should be granted,

It is hereby ordered that this application be and the same is hereby granted upon the following conditions:

1. Southern Pacific Company, within fifteen days after it purchases the stock of Fresno City Railway Company herein authorized to be transferred, shall make a verified report to the Commission, stating the fact of such transfer, the date when it was made, the number of the stock certificates transferred and the consideration given therefor.

2. The price at which said stock is sold must not be taken as representing the value of the stock in the opinion of the Commission, as the Commission does not in this proceeding pass upon the matter of the value of the stock.

3. The authority contained in this order shall expire on June 30, 1916.

Dated at San Francisco, California, this 22d day of May, 1916.

DECISION No. 3354.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF THREE SPUR TRACKS ACROSS JULIAN STREET, ONE ACROSS MARSHALL STREET, AND ONE ACROSS NORTH FRONT STREET IN THE CITY OF TURLOCK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

Application No. 2251.

Decided May 22, 1916.

Applicant, finding its facilities at Turlock inadequate during the melon shipping season, applies for permission to construct five additional spur tracks crossing certain streets in said city. Protestants contend that applicant should be compelled to construct a certain highway connection, and though such suggestion is considered meritorious, no provision therefor is made in the order. Application granted, provided applicant shall maintain a human flagman at such crossings during the melon shipping season.

Geo. D. Squires, for Applicant.

J. W. Hawkins and *W. I. Titus,* for certain Protestants.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was filed by Southern Pacific Company on May 1, 1916, and asks permission to construct one spur track across Marshall street, one spur track across North Front street and three spur tracks

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across Julian street. A protest was received against granting this application and a public hearing was held at Turlock on May 19, 1916.

The proposed crossing at Marshall street is a reconstruction of existing tracks, and no opposition was made to granting it, but the crossing at Front street and the three crossings at Julian street were opposed.

The Southern Pacific Company's tracks run through the city of Turlock in a general north and south direction. Front street parallels the track on the east side and Julian street crosses it at right angles and is the most northerly open crossing in the city. Julian street has been paved to its connection with Broadway, a north and south street one block west of the track and, with the portion of Front street from Julian to the city limits, which has also been paved, and with Broadway, it forms an entrance for the state highway to the west side of the city. The business district of Turlock is on both sides of the track. The main travel to the west side follows the route outlined above, that is Front street, Julian street and Broadway, while the main travel to the east side leaves Front street north of Julian near the northerly city limits, runs southeasterly for about a block to Center street and follows that street to the business section.

The protestants to the granting of this application are business men and property owners on the the west side who have contributed to pave Julian, Front street and Broadway in order to make the west side of the city readily accessible to those going to and from the state highway to the north. It is their fear that if this application is granted the new railroad crossing proposed on Front street, and the three additional tracks to be laid on Julian street, will make it inconvenient and dangerous for drivers of automobiles and other vehicles to reach the west part of the city.

All of the crossings applied for herein are proposed in connection with the readjustment of the Southern Pacific Company's freight facilities in the city of Turlock. Turlock is in the heart of the melon district of the San Joaquin Valley, and during the last year 1,400 cars of melons were sent from the Southern Pacific station. This year it is estimated that between 2,500 and 3,000 cars of melons will be loaded. As the melon season commences early in July and is over in about three months, it can readily be seen that ample facilities are necessary to properly serve the melon shippers during the short season. Last year the existing facilities were found to be inadequate to load the 1,400 cars, and it appears that it was not unusual for the shippers to be obliged to continue loading cars far into the night because of the lack of proper team tracks. With possibly twice the amount of melons to be loaded this year, and no improvement in the facilities, the conditions which would result would, obviously, be much worse than they were during the last season.

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The applicant has plans perfected to increase the facilities, has some necessary real estate under option, and believes it can carry out its plans in the six weeks remaining before the melon shipments commence; but the company does not believe it can make any improvements this year if new plans are necessary and additional real estate, not included in the first plan, must be secured. The protestants stated that they had in mind several different plans other than that proposed by the Southern Pacific Company to relieve the situation. One of those plans was discussed and that involves the acquisition of some property in addition to that now held under option by the Southern Pacific Company. The protestants admit the need of additional facilities and recognize that the time is short in which they can be installed to be of service this year, and they are willing to have this application granted, provided, as one of the conditions in that permission, the Southern Pacific Company shall be required to build and pave a road from some point on the state highway north of the proposed crossing on Front street, westerly to connect with Broadway.

The plan itself is one which meets with my approval and which seems to be in every way desirable, but I am unwilling to make it a condition in the order both because I am not convinced of the justice of requiring the Southern Pacific Company to pay for this highway, and because an order which contained such a provision would undoubtedly result in serious delay.

It appears that there is a chance of the Southern Pacific Company voluntarily building such a road if the city vacates a portion of Front street, and the advantage of this to both the railroad and the city is so obvious I am satisfied that the plan will be eventually carried out.

The crossing of Front street will be used only for switching movements and will not now, I believe, need protection. With the three additional tracks across Julian street, and cars standing near this street, that crossing should be protected by a human flagman during the fruit shipping season, at least, and during such other times as cars are permitted to stand within 500 feet of the crossing.

I recommend the following form of order:

ORDER.

Southern Pacific Company, a corporation, having applied to the Commission for permission to construct a spur track across Marshall street, a spur track across North Front street and three spur tracks across Julian street, in the city of Turlock, Stanislaus County, California, as hereinafter indicated, and a public hearing having been held, and it appearing that this application should be granted subject to certain conditions,

It is hereby ordered that Southern Pacific Company be and the same hereby is granted permission to construct at grade a spur track across

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Marshall street, a spur track across North Front street and three spur tracks across Julian street, at the points shown by the maps attached to the application, subject to the following conditions, viz:

(1) The crossings shall be constructed of a width and type of construction to conform to those portions of the streets to be crossed now graded with grades of approach not exceeding three (3) per cent; shall be protected by suitable crossing signs and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing the crossings, together with the cost of their maintenance thereafter in good and first-class condition for the safe and convenient use of the public, shall be borne by applicant.

(3) During the melon shipping season and during such other times as the three spur tracks across Julian street are occupied by cars to a point within five hundred (500) feet of the crossing, Southern Pacific Company shall maintain a human flagman at this crossing.

(4) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of May, 1916.

DECISION NO. 3355.

FILM EXCHANGE BOARD OF TRADE OF SAN FRANCISCO

vs.

SOUTHERN PACIFIC COMPANY ET AL.

Case No. 918.

Decided May 22, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Film Exchange Board of Trade of San Francisco, the complainant in this proceeding, having on May 22, 1916, filed with this Commission a request that this proceeding be dismissed on the ground that the parties had reached an informal adjustment of the matter complained of,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 22d day of May, 1916.

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DECISION NO. 3356.

IN THE MATTER OF THE APPLICATION OF FERDINAND R. BAIN AND SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE TRANSFER OF A FRANCHISE GRANTED TO FERDINAND R. BAIN BY THE COUNTY OF ORANGE BY ORDINANCE NO. 123, AND FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 2286.

Decided May 22, 1916.

Ferdinand R. Bain authorized to transfer a certain franchise permitting the construction and operation of gas distributing mains in a certain portion of Orange County to the Southern Counties Gas Company, and the latter granted a certificate of public convenience and necessity authorizing the exercise of rights thereunder; provided, that a stipulation be filed to the effect that no value shall ever be claimed for the franchise transferred other than the actual cost thereof.

REPORT OF THE COMMISSION.

Ferdinand R. Bain having applied to this Commission for authority to transfer to Southern Counties Gas Company of California a certain franchise granted to said Ferdinand R. Bain by the board of supervisors of the county of Orange, State of California, in Ordinance No. 123, approved December 22, 1914, which franchise grants the right to construct and operate a gas distributing system along certain highways in said county; and Southern Counties Gas Company of California having joined in this application and having asked for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges granted by said franchise; and it appearing that the territory covered by said franchise is contiguous to territory which is now served with gas by Southern Counties Gas Company of California, and that the territory covered by said franchise is not now served by a public utility of like character, and that this is not a case in which a hearing is necessary and that the application should be granted,

It is hereby ordered that Ferdinand R. Bain be and he is hereby authorized to convey to Southern Counties Gas Company of California that certain franchise granted to Ferdinand R. Bain by the board of supervisors of the county of Orange, State of California, in Ordinance No. 123 of said county, approved on December 22, 1914, on the following condition and not otherwise, to wit:

That Southern Counties Gas Company of California shall first have filed with the Railroad Commission of the State of California a stipulation duly authorized by its board of directors, agreeing that Southern Counties Gas Company of California, its successors and assigns, will never claim before the Railroad Commission or any other public authority any value for the franchise granted by said Ordinance

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No. 123 of the board of supervisors of Orange County, California, in excess of the actual cost thereof to Ferdinand R. Bain, which cost shall be stated in the stipulation, and shall have secured from the Railroad Commission a supplemental order herein, declaring that such stipulation, satisfactory to the Railroad Commission, has been filed.

And it is hereby declared that public convenience and necessity require the exercise by Southern Counties Gas Company of California of the rights and privileges granted by the board of supervisors of the county of Orange in said Ordinance No. 123.

Dated at San Francisco, California, this 22d day of May, 1916.

Decisions Nos. 3357, 3358, and 3359, grade crossings; not printed. See end of volume.

DECISION NO. 3360.

IN THE MATTER OF THE APPLICATION OF LONG BEACH CONSOLIDATED GAS COMPANY FOR AN ORDER AUTHORIZING IT TO SELL A CERTAIN GAS PLANT TO THE SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA.

Application No. 2198.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO SELL A CERTAIN GAS PLANT TO SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA.

Application No. 2199.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL STOCK AND BONDS, AND TO PURCHASE GAS PROPERTIES.

Application No. 2271.

Decided May 22, 1916.

These consolidated applications are for authority to transfer the gas properties of Long Beach Consolidated Gas Company and Southern California Edison Company, excepting the latter's gas properties at Santa Barbara, to the Southern Counties Gas Company; the latter to issue $2,500,000.00 face value of 5½ per cent first mortgage bonds, 6,600 shares of preferred stock of the par value of $100.00 per share, and 3,400 shares of common stock of the par value of $100.00 per share. Bonds to net not less than 92½ with an additional $100,000.00, preferred stock to net 90, common stock to retire outstanding preferred stock of Southern Company. Proceeds of securities sold to be used in the acquisition of gas properties mentioned, the payment of $556,000.00 bonds, $240,500.00 in gold notes and floating indebtedness in a sum not less than $152,000.00 of the Southern Company, the balance for additions and betterments to be hereafter specified.

Held, the consolidation herein proposed will bring together three separate systems enabling applicant to render an improved service at reduced rates. Applications granted; provided Southern Company file a stipulation to the effect that no value other than the actual cost will ever be claimed for any franchise transferred in connection herewith.

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Mountford S. Wilson, of *Wilson & Wilson*, and *Leroy M. Edwards*, for Southern Counties Gas Company.

Harry J. Bauer, for Southern California Edison Company and Long Beach Consolidated Gas Company.

George L. Hoodenpyl, for the City of Long Beach.

Albert Lee Stephens, for the City of Los Angeles.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

These applications are closely related, and by agreement among the parties concerned the evidence submitted for each was made applicable to all three.

They involve a proposed merger of certain gas properties in the counties of Los Angeles, Orange and San Bernardino.

The general plan contemplates that Southern Counties Gas Company, hereinafter referred to in this opinion as "the Southern Company," shall acquire by purchase the properties of the Long Beach Consolidated Gas Company, hereinafter referred to in this opinion as "the Long Beach Company," and the gas properties, with the exception of the Santa Barbara plant, of the Southern California Edison Company, hereinafter referred to in this opinion as "the Edison Company."

The Southern Company was organized on February 24, 1911. It owns a system of gas plants serving the municipalities of Placentia, Garden Grove, South Santa Anita, El Monte, Whittier, Santa Ana, Orange, Anaheim, Fullerton, Monrovia, Sierra Madre, Arcadia, Covina, Azusa, Glendora and contiguous territory in Los Angeles and Orange counties. Its gas generating plants are located at Santa Ana, Whittier, Monrovia and Covina. It is at the present time, however, serving natural gas throughout the greater part of its territory. It purchases this gas from the Standard Oil Company, from the latter's properties in Coyote Hills, and from the Petroleum Development Company, an affiliation of The Atchison, Topeka and Santa Fe Railway, in the Olinda oil fields.

The Long Beach Company was organized in July, 1910. It owns gas plants in Long Beach, from which it serves that city and neighboring territory. The Long Beach Company is supplied with natural gas from the Fullerton field, which it purchases from the Southern California Gas Company at wholesale under contract at 24½ cents per thousand cubic feet.

The Edison Company serves gas in and about the municipalities of Pomona, Chino, Claremont, San Dimas, Lordsburg, Venice, Santa Monica, Sawtelle, in that part of the city of Los Angeles comprising Wilmington, San Pedro and neighboring communities. It owns gas generating plants at San Pedro, Pomona, Venice and Santa Monica.

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In a portion of its territory it is serving a mixture of natural and artificial gas. It purchases this natural gas, which comes from the Midway fields in Kern County, from the Southern California Gas Company. Pomona, Chino, Lordsburg, San Dimas and Claremont are served with artifical gas from the plant at Pomona. Covina, Azusa and Lordsburg receive artificial gas from the plant at Covina.

It is the intention of the Southern Company to enter into new contracts with the Southern California Gas Company at lower prices than are paid by either the Long Beach or the Edison Company for its supply of natural gas. It is the intention further to lay a line three miles in length so as to serve Azusa and Lordsburg and neighboring territory from the Pomona plant. The Covina plant will be shut down.

The Southern Company contemplates the unification of the system, a reduction in the retail rate from $1.00 per thousand cubic feet to 90 cents in the city of Long Beach, and a price reduction in San Pedro and certain other sections.

The Southern Company included in the presentation of its case a statement that rates would not be increased by reason of the merger, but that definite decreases would be forthcoming.

The Southern Company proposes to purchase the additional gas properties through the sale of $2,500,000.00 of its first mortgage 5½ per cent bonds, and $660,000.00 par value of its 6 per cent preferred stock. As part of its plan of financing this new undertaking, it applies for authority to issue $340,000.00 face value of common stock to retire a like amount of existing preferred stock.

The applicants introduced an inventory and appraisal of their properties compiled by Mr. William A. Baehr, a gas engineer of Chicago. Mr. Baehr's report was an appraisal of the properties as of January 25, 1916. He estimated the reproduction cost of the physical properties which it is herein proposed to consolidate, at $3,441,000.00. He added $850,000.00 for going concern value, making a total of $4,291,000.00. Mr. Baehr estimated the present or depreciated value of the physical properties of these plants to be $3,159,000.00.

Mr. J. W. White, of the Department of Statistics and Accounts of the Railroad Commission, presented a report of original cost which he had compiled from the annual reports which the applicants had submitted to this Commission. Mr. White found that the Southern, Long Beach and Edison companies reported the cost as of December 31, 1915, of their tangible properties which it is herein proposed to amalgamate, as follows:

Edison Company	$1,058,120 38
Long Beach Company	741,781 42
Southern Company	959,775 21
	$2,759,677 01

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Since December 31, 1915, the applicants have either added to their properties or have ordered materials which will shortly go into their properties to bring this total cost to a sum approximating $3,000,000.00.

The three applicants report a total of 40,000 consumers, which would place the original cost per consumer installation at approximately $75.00.

For the year ending December 31, 1915, the three applicants reported earnings and expenses as follows:

Operating revenues:	
Southern Counties	$248,993 86
Southern California Edison	301,220 06
Long Beach	244,621 72
Total	$794,835 64
Operating expenses:	
Southern Counties	$173,128 12
Southern Cailfornia Edison	268,276 46
Long Beach	184,783 82
Total	$626,188 40
Net operating revenues:	
Southern Counties	$75,865 74
Southern Cailfornia Edison	32,943 60
Long Beach	59,837 90
Total	$168,647 24

The operating expenses noted above include depreciation as follows:

Southern Counties Gas Company	----------
Southern California Edison Company	$42,500 00
Long Beach Consolidated Gas Company	25,000 00
Total	$67,500 00

The net operating revenue, therefore, excluding depreciation, amounts to $236,000.00.

On December 31, 1915, the Long Beach Company reported assets and liabilities as follows:

Assets.

Fixed capital installed prior to January 1, 1913 (gas)	$1,270,291 47	
Fixed capital installed since December 31, 1912 (gas)	153,314 82	
Total fixed capital		$1,423,606 29
Cash	$21,504 63	
Deposits	100 00	
Total cash and deposits		21,604 63
Notes receivable		23 00
Accounts receivable:		
A—From consumers and agents	$5,635 55	
B—Miscellaneous accounts receivable	802 50	
Total accounts receivable		6,438 05
Materials and supplies		8,825 31
Sinking fund		6,217 67

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Prepaid expenses:		
A—Prepaid taxes	$52 68	
B—Prepaid insurance	187 15	
C—Other prepayments	3,461 96	
Total prepaid expenses		3,701 79
Unamortized discount on securities and expense:		
A—Stocks	$21,200 00	
B—Bonds	10,521 01	
Total		31,721 01
Automobiles (included in other prepayments last year)		5,731 69
Total assets		$1,507,879 44

Liabilities.

Capital stock		$866,700 00
Funded debt		513,000 00
Accounts payable:		
A—Audited vouchers and wages unpaid	$11,861 98	
B—Consumers deposits	5,976 09	
Total accounts payable		17,838 07
Interest accrued		5,130 00
Service billed in advance		2,500 00
Reserve for accrued depreciation		81,105 04
Casualty and insurance reserves		3,917 95
Reserve for uncollectible bills		200 00
Corporate surplus		17,488 38
Total liabilities		$1,507,879 44

The gas properties of the Edison Company form only a small portion of its business, and the computations of their cost have been made by the applicants on a basis of 4½ per cent of the total. In the segregation of bonded indebtedness of the gas properties the same percentage has been used.

For the year ending December 31, 1915, the Southern Company reported the following assets and liabilities:

Assets.

Fixed capital installed prior to January 1, 1913 (gas)	$1,419,130 10	
Fixed capital installed since December 31, 1912 (gas)	272,898 13	
Total fixed capital		$1,692,028 23
Cash	$14,794 77	
Deposits	350 00	
Total cash and deposits		15,144 77
Notes receivable		160 70
Due from consumers and agents		34,405 81
Miscellaneous accounts receivable		2,271 68
Interest receivable		20 35
Materials and supplies		23,943 74
Sinking funds		40,279 61

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Treasury securities:		
Treasury notes, 3-year	$12,500 00	
Second mortgage treasury bonds, 30-year first mortgage	48,000 00	
		60,500 00
Prepaid rents	$447 09	
Prepaid taxes	5,489 31	
Prepaid insurance	650 76	
Total		6,587 16
Unamortized discount on securities and expenses:		
Stock		
Bonds	$55,057 50	
Miscellaneous 3-year notes, second mortgage	14,295 00	
Total		69,352 50
Other suspense		24,436 96
Construction work in progress		14,171 55
Total assets		$1,983,302 96
Liabilities.		
Capital stock		$840,000 00
Funded debt		824,000 00
Notes payable		65,128 58
Audited vouchers and wages unpaid	$59,025 52	
Consumers deposits	14,360 93	
Miscellaneous accounts payable	40 35	
Total accounts payable		73,426 80
Interest accrued		12,346 25
Service billed in advance (rent received)		26 71
Reserve for accrued depreciation		47,762 81
Insurance accrued		297 43
Reserve for sinking fund		17,500 00
Reserve for sinking fund		20,000 00
Reserve for contingencies		8,000 00
Reserve for inventory		795 13
First mortgage bonds unsold		48,000 00
Second mortgage notes unsold		12,500 00
Corporate surplus		13,519 25
Total liabilities		$1,983,302 96

The Southern Company has an authorized capital stock of $1,000,000.00, divided into 10,000 shares of the par value of $100.00 per share. The stock is divided into $500,000.00 par value of preferred and $500,000.00 of common. All of the common and $340,000.00 par value of the preferred stock are outstanding. The Southern Company has an authorized bond issue of $1,000,000.00. It has outstanding at the present time bonds of the face value of $556,000.00, an issue of gold notes in the sum of $240,500.00 and a floating indebtedness of $152,000.00—a total indebtedness of $948,500.00.

The contract under which the Southern Company proposes to make the purchase contemplated by these applications, provides that it shall pay $950,000.00 for the properties of the Long Beach Company and

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$1,050,000.00 for the properties of the Edison Company, or a total of $2,000,000.00.

It is provided in this contract of purchase that the Southern Company may take over the Long Beach properties with their present bonded indebtedness of $513,000.00. In this case the Southern Company will be under an additional expense connected with the calling and payment of these bonds.

The projectors of the merger intend that the Southern Company shall be discharged of all of its existing bonded and note indebtedness and such other indebtedness as may now be payable, including the sum of $152,000.00. The present mortgage will be canceled and a new one created. The issue of bonds applied for herein will be put out under the new mortgage.

The Southern Company states that it is under the necessity of raising approximately $3,000,000.00, which will be used as follows:

To acquire properties of the Long Beach Company	$950,000 00
To acquire gas properties of the Edison Company	1,050,000 00
To pay off indebtedness of the Southern Counties Gas Company	948,500 00
Extra cost of clearing the Long Beach Company of indebtedness, approximately	15,000 00
Total	$2,963,500 00

The Southern Company states further that it will be under the necessity of raising an additional sum for additions and betterments and for miscellaneous expenses in connection with the reorganization, which will bring the total up to $3,000,000.00. It proposes to raise this sum by the following means:

Sale of $2,500,000.00 of first mortgage 5½ per cent 20-year bonds at 92½ per cent of face value	$2,312,500 00
Sale of $660,000.00 par value of 6 per cent preferred stock at $90.00 per share	594,000 00
Total	$2,906,500 00
To this the largest stockholders in the enterprise will add the sum of $100,000.00, to be applied either directly on the price of the bonds or to be credited on bond discount	100,000 00
Total	$3,006,500 00

The Southern Company states that it has a firm undertaking for the sale of its bonds and its stock at the prices named.

The bonds which the Southern Company proposes to sell will be issued under a deed of trust to Central Trust Company of Illinois and Los Angeles Trust and Savings Bank, trustees. The bonds will bear date of May, 1916, and will mature in May, 1936. They will be a first mortgage on the combined properties and will be callable at 102½ per cent of face value. The deed of trust provides for a total of $10,000,000.00 of bonds, of which $2,500,000.00 are to be issued forthwith. The balance may be issued up to 80 per cent of the cost of

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future additions and betterments, when the earnings shall have been for the twelve months previous, one and one-half times the interest on the outstanding bonds, plus the bonds which it is proposed to issue. New bonds may be issued for the acquisition of new plants, but in a sum not in excess of $1,250,000.00, unless the earnings for the previous twelve months shall have been one and three-fourths times the interest on the outstanding bonds plus the bonds proposed to be issued.

The sinking fund is to begin in 1923 and to consist annually of 1 per cent of the bonds outstanding. This fund may be so divided that one-half may be reinvested in additions and betterments to the gas properties. In case of default, the holders of 25 per cent in amount of the bonds outstanding may foreclose upon the properties, but the holders of a majority of the outstanding bonds shall control the proceedings.

The Southern Company will amend its articles of incorporation so as to provide for a total issue of $5,000,000.00 of stock, divided into $2,500,000.00 of preferred stock and a like amount of common stock; all of the stock to be of the par value of $100.00 per share. The preferred stock will be entitled to 6 per cent cumulative dividends and shall be preferred as to assets as well as to dividends. The preferred stock is callable at $105.00 per share.

The Southern Company will retain its present franchises and will acquire additional franchises from the Edison and Long Beach companies as follows:

From the Edison Company:

Constitutional franchise to operate in the cities of Pomona, Claremont, Lordsburg, Venice, Santa Monica and Sawtelle;

Franchise granted by the city of Chino to Southern California Edison Company on May 6, 1913, by Ordinance No. 53;

Franchise granted by the county of Los Angeles to G. H. Bixby on October 22, 1912, by Ordinance No. 315 (N. S.);

Franchise granted Southern California Edison Company by the county of Los Angeles on April 8, 1912, by Ordinance No. 298 (N. S.);

Franchise granted Southern California Edison Company by the county of San Bernardino on March 24, 1913, by Ordinance No. 153.

From the Long Beach Company:

Franchise granted to the Long Beach Consolidated Gas Company by the county of Orange on April 8, 1914, by Ordinance No. 111;

Franchise granted to the Long Beach Consolidated Gas Company by the county of Orange on October 13, 1914, by Ordinance No. 120.

At the hearing upon these applications the city of Long Beach and the city of Los Angeles were represented by counsel. They appeared to safeguard their respective interests, both urging that the Commission should not by inference place a higher value upon the gas properties concerned for the purposes of an issue of stocks and bonds than would

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be warranted in a proceeding where rates were involved. Counsel for the city of Long Beach urged further that this Commission should not authorize an issue of securities which would increase the indebtedness upon these gas plants, nor add to their present annual fixed charges. The city of Long Beach presented also an agreement with the Long Beach Company under the terms of which the latter agreed that any rates to be fixed in the city of Long Beach by the Railroad Commission should be binding upon it as of July 1, 1915.

These interventions did not partake of the nature of protests, and the purpose of the representations will be met if the interests of both Los Angeles and Long Beach are duly safeguarded in such order as may be issued.

The contract between the city of Long Beach and the Edison Company is an independent agreement between the city and the company and I believe it should be left to them to adjust in a manner mutually satisfactory.

The Southern Company has submitted the following statement to indicate the relationship between the existing indebtedness and the annual fixed charges, and the indebtedness and fixed charges to be created by reason of the merger:

Present Condition of Indebtedness.

Southern Counties Gas Company:		
Bonds		$596,000 00
Gold notes		240,500 00
Long Beach Consolidated Gas Company:		
Bonds		513,000 00
Southern California Edison Company:		
Total funded debt	$19,216,000 00	
4½ per cent same, being estimated value of—		
Gas properties		864,720 00
Total funded debts		$2,214,220.00

Floating Indebtedness.

Southern California Edison Company (4½ per cent basis)		$24,820 36
Long Beach Consolidated Gas Company		28,183 80
Southern Counties Gas Company (new capital expenditure)		152,000 00
Total		$205,004 16
Total funded and floating debt	$2,482,036 82	
Proposed new bonded indebtedness	2,500,000 00	
(Making an increase of but $17,963.18, but there is $152,000.00 new property.)		

Present Interest.

Southern California Edison Company (4½ per cent basis)	$44,341 20
Long Beach Consolidated Gas Company	30,780 00
Southern Counties Gas Company	50,600 00
Total	$125,721 20
New interest charge on $2,500,000.00 bonds at 5½ per cent	137,500 00

Or more interest if no interest is charged for floating debt, and less interest if floating debt is changed to an interest-bearing debt.

In this statement Southern Counties Gas Company has included its sinking fund bonds, amounting to $40,000.00 and the interest thereon.

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I believe that the applicants have presented a general plan of consolidation which is not only reasonable but which should be effective in at once improving the gas service and reducing its price to a large community in southern California. The section served by these three properties is one of the fastest growing portions of the United States. It offers an attractive field for expansion and development. It is to a large extent supplied with natural gas of good heating quality. The unification of these systems will admit of economies, and these advantages it is now proposed to share with the patrons.

The chief stockholders of the Southern Company will associate with themselves a group of financially strong men of wide experience in gas and other public utility enterprises. The Southern Company will continue under the management of Mr. Ferdinand R. Bain, who has had wide experience in the management and operation of gas properties in the eastern states and in California. A complete canvass of the field will be undertaken for additional business, and a ready service force will be equipped to maintain the plant in high efficiency and to adjust complaints of patrons.

The Southern Company is also undertaking extensions into Newport Beach and Huntington Beach and contemplates also a wider sale of natural gas for industrial uses.

I am of the belief that from the point of view of service and rates, the merger herein proposed will redound to the advantage of the customers of the three companies. It is apparent also that neither the indebtedness nor the interest costs will be increased. The three companies operating as one should be enabled to reap larger returns than as separate entities.

I recommend that the application be granted and submit the following form of order:

ORDER.

Long Beach Consolidated Gas Company having applied to this Commission for an order authorizing it to sell a certain gas plant and franchises to Southern Counties Gas Company of California; and Southern California Edison Company having applied to this Commission for an order authorizing it to sell certain gas plants and franchises to Southern Counties Gas Company of California; and Southern Counties Gas Company of California having applied to this Commission for authority to issue and sell stocks and bonds, and a hearing having been held and this Commission being fully apprised in the premises, and it appearing to this Commission that public interest and convenience would be served by granting said applications upon the conditions hereinafter set out, and it appearing further that the purposes for which it is proposed to issue said stock and said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

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It is hereby ordered that Long Beach Consolidated Gas Company be granted authority and it is hereby granted authority to sell its gas properties and franchises to Southern Counties Gas Company of California.

It is further ordered that Southern California Edison Company be granted authority to sell its gas properties and gas franchises, with the exception of its properties and franchises in Santa Barbara County, to Southern Counties Gas Company of California.

The authority herein granted to said Long Beach Consolidated Gas Company and to said Southern California Edison Company is granted upon the following conditions and not otherwise:

(1) The gas properties to be transferred by Southern California Edison Company and Long Beach Consolidated Gas Company shall consist of the properties described in Exhibit "A" attached hereto and made a part of this order.

(2) The authority herein granted shall become effective only after Southern California Edison Company and Long Beach Consolidated Gas Company shall have given to Southern Counties Gas Company of California a good and sufficient deed to said properties described in Exhibit "A," and shall have filed certified copies thereof with this Commission.

(3) The following franchises shall be transferred from Southern California Edison Company to Southern Counties Gas Company of California.

Constitutional franchise to operate in the cities of Pomona, Claremont, Lordsburg, Venice, Santa Monica and Sawtelle;

Franchise granted by the city of Chino to Southern California Edison Company on May 6, 1913, by Ordinance No. 53;

Franchise granted by the county of Los Angeles to G. H. Bixby on October 22, 1912, by Ordinance No. 315 (N. S.);

Franchise granted Southern California Edison Company by the county of Los Angeles on April 8, 1912, by Ordinance No. 298 (N. S.);

Franchise granted the Southern California Edison Company by the county of San Bernardino on March 24, 1913, by Ordinance No. 153.

(4) Franchises to be transferred by Long Beach Consolidated Gas Company shall include the following:

Constitutional franchise to operate gas plants in Long Beach, Wilmington and San Pedro;

Franchise granted to the Long Beach Consolidated Gas Company by the county of Orange on April 8, 1914, by Ordinance No. 111;

Franchise granted to the Long Beach Consolidated Gas Company by the county of Orange on October 13, 1914, by Ordinance No. 120.

(5) Franchises enumerated above in subdivisions No. (3) and No. 4 shall be transferred to Southern Counties Gas Company of California

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only upon condition that Southern Counties Gas Company of California shall receive from this Commission a supplemental order stating that Southern Counties Gas Company of California has filed with this Commission a stipulation in satisfactory form, duly authorized by its board of directors, declaring that Southern Counties Gas Company of California, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said franchises, or any of them, in excess of the original cost of said franchises, which actual cost shall be duly stated by Southern Counties Gas Company of California.

(6) Long Beach Consolidated Gas Company and Southern California Edison Company shall devote the proceeds from the sale of the properties herein authorized to be transferred to such purposes as may be permissible under their respective mortgages and deeds of trust.

It is further ordered that Southern Counties Gas Company of California be granted authority and it is hereby granted authority to execute a mortgage of its properties to Central Trust Company of Illinois and Los Angeles Trust and Savings Bank to secure an authorized issue of $10,000,000.00 of its 20-year 5½ per cent first mortgage bonds, said mortgage and deed of trust to be in a form to be hereafter approved by this Commission.

It is further ordered that Southern Counties Gas Company of California be granted authority and it is hereby granted authority to issue $2,500,000.00 face value of its 20-year 5½ per cent first mortgage bonds.

It is further ordered that Southern Counties Gas Company of California be granted authority and it is hereby granted authority to issue 6,600 shares of its 6 per cent cumulative preferred stock of the par value of $100.00 per share.

It is further ordered that Southern Counties Gas Company of California be granted authority and it is hereby granted authority to issue 3,400 shares of its common capital stock of the par value of $100.00 per share, for the retirement and cancellation of 3,400 shares of its existing preferred stock of the par value of $100.00 per share.

The authority herein given to issue said stock and said bonds is given upon the following conditions and not otherwise:

(1) The bonds herein authorized to be issued shall be issued so as to net the applicant not less than 92½ per cent of the face value thereof plus accrued interest and an additional sum of $100,000.00.

(2) The 6 per cent cumulative preferred stock herein authorized to be issued shall be issued so as to net the applicant not less than $90.00 per share.

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(3) The proceeds to be derived from the sale of the $2,500,000.00 of bonds and the 6,600 shares of 6 per cent cumulative preferred stock shall be used for the following purposes and not otherwise:

(*a*) For the purchase and acquisition, free of all encumbrance, of the gas properties of the Southern California Edison Company and of the Long Beach Consolidated Gas Company as the same are described in Exhibit "A" attached to this order and made a part hereof.

(*b*) For the retirement and payment of the indebtedness of Southern Counties Gas Company of California, consisting of bonds in the sum of $556,000.00; gold notes in the sum of $240,500.00; and floating indebtedness in a sum not less than $152,000.00; or a total of $948,500.00.

(*c*) For additions and betterments to be hereafter specified.

(4) The authority herein given to Southern Counties Gas Company of California to issue common stock is given merely for the purpose of transforming 3,400 shares of outstanding preferred stock into common stock and is not predicated upon the value of either said preferred or common stock.

(5) The applicant shall issue the 6,600 shares of 6 per cent cumulative preferred stock and the 3,400 shares of common stock only after it shall have filed with this Commission a copy of its amended articles of incorporation.

(6) The authority herein granted for the sale of the properties of Long Beach Consolidated Gas Company and of Southern California Edison Company, and for the issue by Southern Counties Gas Company of California of stocks and bonds, is granted on condition that the price paid by Southern Counties Gas Company of California for said properties of Long Beach Consolidated Gas Company and of Southern California Edison Company, and the amount of stocks and bonds herein authorized to be issued for the payment therefor, shall not be binding upon this Commission or any court or other public body as a finding of value for said properties or either of them.

(7) Southern Counties Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stocks and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified report to the Commission stating the sale or sales of said stocks and bonds during the preceding month, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(8) The authority herein granted to issue bonds is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

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(9) The authority herein granted to issue stocks and bonds shall apply to such stocks and bonds as shall have been issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22d day of May, 1916.

EXHIBIT "A."

a. Southern California Edison Company:

CITY OF VENICE.

COUNTY OF LOS ANGELES.

(*j*) Lots seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25) and twenty-six (26), all of block "T" of the Ocean Tract, in the city of Venice, as shown on map recorded in Book 23, pages 93 and 94, Miscellaneous Records of Los Angeles County, State of California, excepting from said lots twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25) and twenty-six (26) those portions thereof which were conveyed to K. H. Wade by deed from S. S. Chaffee, recorded in Book 800, page 5 of Deeds, records of said Los Angeles County, said lot twelve (12), being subject to the conditions, restrictions and reservations contained in the deed from Santa Monica Commercial Company to I. A. Jameson, recorded in Book 2358, page 311 of Deeds, Records of Los Angeles County, California.

CITY OF LOS ANGELES.

COUNTY OF LOS ANGELES.

(*k*) Lots twelve (12) and thirteen (13) of James' subdivision of block forty-seven (47) of San Pedro, in the city of Los Angeles, as shown on a map recorded in Book 5, page 591, Miscellaneous Records of Los Angeles County.

CITY OF POMONA.

COUNTY OF LOS ANGELES.

(*l*) Lots one (1) and two (2), block two (2), and lots one (1), two (2), three (3) and four (4), block three (3), all of G. V. D. Brand's subdivision of lots four (4) and five (5) of block one hundred eighty-three (183), of Pomona, in the city of Pomona, as shown on a map recorded in Book 19, page 47, Miscellaneous Records of Los Angeles County.

b. Long Beach Consolidated Gas Company:

CITY OF LONG BEACH.

COUNTY OF LOS ANGELES.

(*m*) The four (4) acre parcel of land in the Rancho Los Cerritos, city of Long Beach, county of Los Angeles, State of California, conveyed to the Long Beach Consolidated Gas Company by deed recorded in Book 4398, page 119 of Deeds, Records of said Los Angeles County, together with the easements specified in said deed; this conveyance being subject to the right to lay, construct, maintain and operate a pipe line and the right of ingress and egress granted to Southern California Edison Company over a twenty (20) foot strip of land, both of which rights are described in a deed recorded in Book 5652 of Deeds, page 313, Records of Los Angeles County.

(*n*) Also that portion of the Rancho Los Cerritos in the city of Long Beach, county of Los Angeles, State of California, described as follows, to wit: Beginning at a point twenty-five (25) feet southerly and at right angles from the center line of

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the Southern Pacific Railroad Company's right of way at the east bulkhead of bridge over the old San Gabriel River; thence south at right angles to said center line of the Southern Pacific Railroad's right of way, one hundred and fifty (150) feet; thence at right angles to this line in an easterly direction and parallel to said center line of said Southern Pacific Railroad's right of way two hundred ninety and four-tenths (290.4) feet; thence at right angles to this line in a northerly direction one hundred and fifty (150) feet to the south line of said right of way of said Southern Pacific Railroad Company; thence along said south line of said right of way of said Southern Pacific Railroad Company in a westerly direction two hundred ninety and four-tenths (290.4) feet to the beginning, as described in deed recorded in Book 4396 of Deeds, page 58, Los Angeles County Records, excepting that portion of same conveyed to Southern California Edison Company by deed recorded in Book 5652 of Deeds, page 313, Los Angeles County Records, subject to the rights of ingress and egress granted to Southern California Edison Company over a twenty (20) foot strip of land described in said deed recorded in Book 5652, of Deeds, page 313, Los Angeles County Records, and subject also to the right to lay, construct, maintain and operate a pipe line granted to Southern California Edison Company by deed recorded in Book 5652 of Deeds, page 313, Los Angeles County Records.

(Foregoing property subject to the conditions contained in the deed from Los Angeles Dock and Terminal Company to A. E. Morphy, recorded in Book 4391, page 1 of Deeds, Los Angeles County Records.)

(*o*) Lots sixteen (16), seventeen (17), eighteen (18), twenty (20), twenty-one (21), twenty-two (22), twenty-three (23) and twenty-four (24), all in block 1 in the Ocean Front Addition to Long Beach, in the city of Long Beach, county of Los Angeles, State of California, as per map in Book 28, page 67, Miscellaneous Records of Los Angeles County, California (subject to right of way over lots seventeen (17), and eighteen (18), for all purposes pertaining to irrigation ditches or water pipes as reserved by deed recorded in Book 770, page 205, of Deeds, Los Angeles County Records.

(*p*) Lot number five (5) of the Sixth street tract, city of Long Beach, county of Los Angeles, State of California, as per map recorded in Book 2, page 99 of Maps, Los Angeles County Records (subject to right of way over said property to lay water pipes and to maintain and repair the same, as granted to the Alamitos Water Company by deed recorded in Book 379, page 295 of Deeds, Los Angeles County Records.)

All of the gas work, plants, buildings, structures, erections and constructions belonging to the Long Beach Consolidated Gas Company and the Southern California Edison Company, existing on all of the above described real estate, or any part thereof.

Also all of the engines, furnaces, boilers, generators, machinery, shafting, belting, retorts, tanks, condensers, compressors, purifiers, pumps, pumping stations, steam-holders, gasholders, reservoirs, expansion tanks, gas mains and pipes, tunnels, surface pipes, pipe lines, fittings, reducers, regulators, drips, valves, connections, implements, meters, tools and all other appliances, instruments, appurtenances and facilities now owned by the Southern California Edison Company and the Long Beach Consolidated Gas Company and constituting parts of their gas works and gas distributing systems and the equipment thereof, and used, or provided for use in or appurtenant to the production, transmission, storage, distribution and sale of natural or artificial gas (excepting, however, the gas properties of the Southern California Edison Company situate at Santa Barbara); also all gas transportation and distribution lines and all easements, rights, power, privileges, franchises, licenses, rights of way, immunities and concessions of the two said companies whether granted to them by virtue of the constitution of the State of California, or by legislative act or by virtue of the acts, resolutions, ordinance or grants of any municipality, county or other political subdivision or any private person or corporation.

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DECISION No. 3361.

IN THE MATTER OF THE APPLICATION OF ANNIE DELL SEGNO, A PUBLIC UTILITY, TO MORTGAGE ALL OF THE PLANT OF SAID PUBLIC UTILITY.

Application No. 1532.

Decided May 22, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas the Railroad Commission of the State of California, by Decision No. 2302, dated April 19, 1915 (Volume 6, Opinions and Orders of the Railroad Commission of California, page 650), authorized Annie Dell Segno to mortgage her water utility plant, known as Ocean Park Heights Water System, to the Bankers Bond and Mortgage Company, for the sum of $4,800.00, with interest at 8 per cent per annum, payable semiannually, said note and mortgage to mature three years from the date thereof; and

Whereas applicant herein asks that said Decision No. 2302, dated April 19, 1915, be modified so as to permit her to borrow said sum of $4,800.00 from any source; and good cause appearing,

It is hereby ordered that Annie Dell Segno be given authority and hereby is given authority to issue a note in the principal sum of $4,800.00.

It is hereby further ordered that Annie Dell Segno be given authority and hereby is given authority to mortgage her water utility plant, known as Ocean Park Heights Water System, to secure the payment of the note herein authorized to be issued.

The authority herein given is given upon the following conditions, and not otherwise:

1. The note herein authorized to be issued shall net applicant the face value thereof.

2. The note herein authorized to be issued shall bear interest at not more than 8 per cent per annum and mature within three years from the date of this order.

3. Applicant shall file with this Commission a copy of the mortgage to be executed to secure the payment of the note herein authorized to be issued.

4. The $4,800.00, which applicant herein is authorized to borrow, shall be used to liquidate the following outstanding obligations:

(*a*) Mortgage on new plant site	$700 00
(*b*) Mortgage on reservoir site	500 00
(*c*) Judgment on useless well	2,600 00
(*d*) Engineer's services, attorney's fees, payments due on equipment purchased and certain lien levied upon the utility for securing payment of bills for material	1,000 00
Total	$4,800 00

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5. The authority herein granted to issue said $4,800.00 note and to execute a mortgage is in lieu of, and not in addition to, the authority granted by Decision No. 2302, dated April 19, 1915.

6. Annie Dell Segno shall report to the Railroad Commission within ten days after the issue of the note herein authorized to be issued, the name of the payee, the date of issue, the face value of the note, the rate of interest and the application of the proceeds, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority herein granted shall apply only to such note as may be issued on or before September 1, 1916.

Dated at San Francisco, California this 22d day of May, 1916.

DECISION NO. 3362.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING IT TO SELL ALL OF ITS PROPERTY RIGHTS AND FRANCHISES.

Application No. 2200.

Decided May 22, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above entitled matter having made request to this Commission that the above entitled application be dismissed,

It is hereby ordered that the above entitled application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 22d day of May, 1916.

DECISION NO 3363.

IN THE MATTER OF THE APPLICATION OF PEOPLES GAS COMPANY OF CALIFORNIA FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCKS, BONDS AND DEBENTURES AND THE EXECUTION OF A TRUST DEED AND MORTGAGE, AND FOR PERMISSION TO PURCHASE AND ACQUIRE CERTAIN GAS PROPERTIES AND FRANCHISES.

Application No. 2201.

Decided May 22, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above entitled matter having made request to this Commission that the above entitled application be dismissed,

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It is hereby ordered that the above entitled application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 22d day of May, 1916.

DECISION NO. 3364.

IN THE MATTER OF THE APPLICATION OF A COMMITTEE COMPOSED OF EDWARD COWDERY, CHARLES DICKEY AND F. R. BAIN, FOR AN ORDER AUTHORIZING SAID COMMITTEE TO SELL TO THE PEOPLES GAS COMPANY OF CALIFORNIA CERTAIN GAS PROPERTIES.

Application No. 2224.

Decided May 22, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the above entitled matter having made request to this Commission that the above entitled application be dismissed,

It is hereby ordered that the above entitled application be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 22d day of May, 1916.

DECISION NO. 3365.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA-OREGON POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 2166.

Decided May 24, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

This Commission, on May 8, 1916, having issued an order in the above entitled matter, and said order having provided as follows:

"The Railroad Commission hereby declares that public convenience and necessity require the exercise by California-Oregon Power Company of the rights and privileges conferred by the franchise granted by the county of Trinity on January 7, 1915, in so far as said franchise provides for the distribution and sale of electric energy in that portion of Trinity County lying north of 40 degrees 50 minutes north latitude; provided, that California-Oregon Power Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that

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California-Oregon Power Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said rights and privileges in excess of the actual cost to California-Oregon Power Company of acquiring said rights and privileges, which cost is represented by California-Oregon Power Company to have been $762.90, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein";

And California-Oregon Power Company having duly filed the stipulation referred to in said order,

It is hereby declared that such stipulation is in form satisfactory to this Commission.

Dated at San Francisco, California, this 24th day of May, 1916.

DECISION NO. 3366.

STEPHEN GODDARD ET AL.

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 929.

Decided May 24, 1916.

Complainants allege that defendant discriminated in that it refused to give certain consumers a rate equal to that paid by other consumers for a similar service. Defendant admitting that a number of discriminations existed, partly in favor of the company and partly in favor of consumers, their elimination directed. Complaint in all other respects dismissed.

Mrs. J. W. Hause, for Complainants.

James T. Shaw, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is a complaint in which it is alleged that the rates charged by The Pacific Telephone and Telegraph Company for residence telephones within Howard townsite, a section adjoining the southern portion of the city of Los Angeles, are exorbitant and discriminatory. The section referred to lies between Manchester avenue and Ballona avenue, outside of the incorporated city limits.

Telephone service in this district is provided by the defendant from its Los Angeles exchange, and the rates charged, except in a few instances, are the published rates which it has filed with the Railroad Commission. The particular classes of service involved in this case are what are known as "four-party" and "suburban ten-party" residence

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service. North of Manchester avenue, the rate for four-party residence telephones is $1.50 per month. South of Manchester avenue and north of Ballona avenue mileage charges are added to this rate at 25 cents for each quarter mile or fraction thereof. Between the city of Los Angeles and the city of San Pedro is a narrow strip of territory which has been annexed to the city of Los Angeles and which is known as the "Shoestring Strip." In this strip, and between Manchester and Ballona avenues, the four-party rate is $2.50 per month. At all of the defendant's exchanges where this class of service is provided its rate schedules provide a mileage rate of 25 cents per quarter mile for service located outside of the boundary within which the base or minimum rate applies. Thus, in Howard townsite, subscribers having four-party residence telephones are required to pay the minimum rate of $1.50 per month, plus mileage charges at 25 cents for each quarter mile between Manchester avenue and the premises where service is established, or they are required to pay the minimum rate effective within the "Shoestring Strip," plus similar mileage charges from the "Shoestring Strip" to their premises. If the minimum rate plus mileage charges computed from Manchester avenue happens to be greater than the minimum rate plus mileage charges computed from the "Shoestring Strip," or vice versa, the subscriber is allowed the lower rate of the two.

In addition to "four-party" and "suburban ten-party" service, subscribers have access also to one-party and two-party service at rates which are established therefor if they elect to take the better grades of service. "Suburban ten-party" service is a class of service which is ordinarily provided for the outlying sections of an exchange for subscribers who can not afford or who may not elect to pay the rates for the better grades of service. Mileage charges ordinarily are not added to suburban rates and, in the present instance, a subscriber can secure this class of residence service for $2.50, regardless of how far he may reside beyond Manchester avenue. It also happens in this instance that if a subscriber's premises were located within a mile or less from Manchester avenue he would be required to pay the same rate for suburban service, $2.50, whereas the rate for four-party, a better grade of service, would be the same or less according to location.

This complaint arose chiefly out of an application which was filed with the defendant some time ago by Mrs. Emma G. Froelich, one of the complainants, for a transfer from suburban ten-party to four-party residence service, the transfer having been refused except at a higher rate than she is now paying for suburban service. It is alleged that others in the immediate neighborhood have been provided with four-party service by the defendant at rates lower than this complainant was asked to pay, and that she has thus been discriminated against. The Commission is accordingly asked to require such readjustment of the present

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rates within Howard townsite as will afford all users of the defendant's service a rate of $1.75 per month for four-party service, or as will render available to all users a uniform flat monthly rate. The burden of the testimony of complainants supports the conclusion that the telephone company has in certain instances been charging rates other than those which under the Public Utilities Act the company should have charged.

Defendant maintains that the rate which complainant, Mrs. Froelich, is asked to pay for four-party service is the lawful rate established by its schedules on file and of record with the Commission. It admits, however, that rates other than those filed as the lawful rates are being charged in eighteen individual instances, but states that these instances are the result of errors of its employees in computing mileage charges. It states further that in nine of these instances the errors were made in favor of the subscribers, the difference between the correct rates and the rates actually charged amounting to $4.85; that in the other nine cases the errors, amounting to $2.80, are in favor of the company, leaving a net difference of $2.05 per month in favor of the subscribers as a result of these errors.

Apparently the chief complainant present at the hearing in this case feels that she has been unjustly singled out for discrimination by the defendant in that she has been refused a four-party service at as low a rate as the defendant has allowed to other users of the same service. It is clear, however, that the rate which she is asked to pay is the present lawful rate, and that to knowingly allow her a more favorable rate without allowing similar privileges to others, would be in violation of the provisions of the law. Hence, unless it be established that the present lawful rates are unreasonably high, the complainant's petition that a uniformly lower rate be fixed must be denied.

With reference, however, to discrimination, the existence of which defendant admits but which it claims was unintentional, since the rates actually charged those subscribers in the instances in which errors have occurred are not the lawful rates now on file and of record with the Railroad Commission, I shall recommend that the company be ordered immediately to charge and collect from all its patrons in the district involved in this complaint the legal rates on file with the Commission.

ORDER.

Complaint alleging that exorbitant and discriminatory rates for telephone service within Howard townsite, Los Angeles County, California, are now being charged its patrons by The Pacific Telephone and Telegraph Company, and a public hearing having been held, and the Commission finding that the company is not charging the rates on file with the Commission,

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It is hereby ordered that the defendant herein, The Pacific Telephone and Telegraph Company, immediately charge and collect from its patrons for telephone service in Howard townsite, Los Angeles County, California, the lawful telephone rates now on file and of record with this Commission.

And it is hereby further ordered that in all other respects the complaint herein be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 24th day of May, 1916.

DECISION No. 3367.

IN THE MATTER OF THE APPLICATION OF MODESTO GAS, LIGHT, COAL AND COKE COMPANY FOR AN ORDER AUTHORIZING IT TO TRANSFER ALL OF ITS PROPERTY TO MODESTO GAS COMPANY.

Application No. 2206.

IN THE MATTER OF THE APPLICATION OF MODESTO GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF NINE HUNDRED NINETY-FIVE SHARES OF ITS CAPITAL STOCK, AND THE EXECUTION OF AN AGREEMENT ASSUMING ALL THE LIABILITIES OF THE MODESTO GAS, LIGHT, COAL AND COKE COMPANY, AND FOR AN ORDER AUTHORIZING THE CREATION OF A BONDED INDEBTEDNESS AND THE ISSUE OF BONDS.

Application No. 2207.

Decided May 24, 1916.

REPORT OF THE COMMISSION.

The Commission having on May 13, 1916, made an order in these proceedings authorizing Modesto Gas, Light, Coal and Coke Company to convey its property to Modesto Gas Company, upon certain conditions, one of which was that the authority to convey said property shall not become effective "until Modesto Gas Company shall have filed with the Railroad Commission a stipulation authorized by its board of directors agreeing that Modesto Gas Company, its successors and assigns, will never claim before the Railroad Commission or any other public authority in any proceeding any value for the so-called constitutional franchise or any other franchises to be conveyed by Modesto Gas, Light, Coal and Coke Company to Modesto Gas Company in excess of the actual cost to Modesto Gas, Light, Coal and Coke Company of acquiring the same," and Modesto Gas Company having, on May 23, 1916, filed with this Commission a stipulation in form satisfactory to the Railroad Commission,

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It is hereby ordered that the Railroad Commission approves the form of stipulation filed by Modesto Gas Company in accordance with the order of May 13, 1916.

Dated at San Francisco, California, this 24th day of May, 1916.

Decisions Nos. 3368 and 3369, grade crossings; not printed. See end of volume.

DECISION No. 3370.

IN THE MATTER OF THE APPLICATION OF OCEAN PARK WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF FIVE THOUSAND DOLLARS.

Application No. 2211.

Decided May 24, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 3269, dated April 21, 1916, authorized applicant herein to issue $5,000.00 face value of bonds (bonds numbered 51 to 55, inclusive), said bonds to be sold at not less than 87½ per cent of their face value plus accrued interest; and

Whereas applicant now desires this Commission to amend said Decision No. 3269 so as to permit applicant herein to either sell or pledge said $5,000.00 face value of bonds; and good cause appearing,

It is hereby ordered that Condition No. 1 of said Decision No. 3269, reading:

> "Ocean Park Water Company shall sell said bonds so as to net not less than 87½ per cent of their face value, plus accrued interest,"

be amended so as to read:

> Ocean Park Water Company shall sell said bonds so as to net not less than 87½ per cent of their face value, plus accrued interest, or pledge said bonds to secure the payment of notes at such a ratio that the face value of the notes shall never be less than one-half of the face value of the bonds pledged as security.

It is hereby further ordered that the funds obtained through the pledging of said bonds shall be used only for purposes specified in said Decision No. 3269, dated April 21, 1916.

It is hereby further ordered that the proceeds from the sale of the bonds shall be used only for the purposes specified in said Decision No. 3269, dated April 21, 1916, or to pay the notes for the payment of which said bonds are pledged as security.

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It is hereby further ordered that Decision No. 3269, dated April 21, 1916, shall remain in full force and effect except as the same may be modified by this first supplemental order.

Dated at San Francisco, California, this 24th day of May, 1916.

DECISION No. 3371.

IN THE MATTER OF THE APPLICATION OF REEDLEY TELEPHONE COMPANY FOR PERMISSION TO ISSUE STOCK.

Application No. 2177.

Decided May 24, 1916.

Applicant authorized to issue 951 shares of its capital stock of the par value of $1.00 per share, to be sold at not less than 90, proceeds for additions and betterments to plant.

A. Terkel, for Applicant.

REPORT OF THE COMMISSION.

This is an application on behalf of Reedley Telephone Company, a California corporation, conducting a telephone exchange in the city of Reedley, Fresno County, for authority to issue 951 shares of its capital stock at 90 cents per share.

A public hearing was held in Reedley on April 25, 1916. From the evidence it appears that applicant serves all of that portion of Fresno County situated within a radius of five miles of the center of Reedley, and in addition certain so-called farmers' lines. Applicant's articles of incorporation provide for a total capital stock of 25,000 shares of the par value of $1.00 each, of which there are at present 12,971 shares issued and outstanding. On March 11, 1913, under Decision No. 496 (reported in Volume No. 2, Opinions and Orders of the Railroad Commission of California, p. 287), applicant was authorized to issue 11,000 shares of its capital stock at par, of which 10,980 shares were issued. By Decision No. 1027 (reported in Volume No. 3, Opinions and Orders of the Railroad Commission of California, p. 771), applicant was authorized to issued 2,500 additional shares at par, of which applicant actually issued 1,240 shares. Finally, by Decision No. 2770 (dated September 20, 1915), applicant was authorized to issue 5,311⅑ shares of its capital stock at 90 cents per share. Under this last mentioned authorization applicant has thus far issued 751 shares.

Applicant's president further testified that the company spent during the year 1915 for permanent betterments and improvements the sum of $1,603.74. These improvements include the construction of 12 miles of lines, the placing of 2½ miles of crossarms (which applicant had in

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stock) on poles then in use, the installation of 2 miles of new pole lead, the installation of new subscribers' stations, and substantial additions to the office equipment, including part payments on a safe and an adding machine, the purchase of an addressograph outfit, and the installation of sleeping quarters for the night operator.

Applicant submitted an exhibit of the operating income and expenses for the year 1915, showing a total income of $7,578.44 and total operating expenses, exclusive of income tax and dividends, of $5,730.17, leaving a balance of $1,848.27. Deducting from this applicant's depreciation reserve for the year amounting to $960.33, applicant's net profits for the year 1915 were, according to the figures submitted, $887.94.

Under Decision No. 2770 the sale of the 5,311 1/9 shares was authorized for the purposes of making improvements and extensions to the applicant's telephone system and for refunding its then existing obligations, as follows:

Balance due The Pacific Telephone and Telegraph Company on its mortgage	$380 90
Kellogg Switchboard and Supply Company for equipment	190 11
First National Bank of Reedley, note for	450 00
Reedley National Bank, note for	450 00
To complete improvements and extensions previously planned	1,280 00
For further improvements and extensions	2,029 89
Total	$4,780 00

Applicant now wishes permission to issue at 90 cents per share 951 shares of the issue then authorized for the purpose of reimbursing its treasury for earnings devoted to permanent additions and improvements during the year 1915.

Applicant has no mortgage or bonded indebtedness and it has reduced all its outstanding obligations mentioned in Decision No. 2770 (*supra*) to one note to the First National Bank of Reedley for $450.00. This note is now due and applicant has on hand $300.00 of the $450.00, and expects to be able to pay the entire note within the next month or two. Applicant has no other indebtedness except its current obligations, amounting to not more than $200.00.

Under the circumstances we believe that the application should be granted.

ORDER.

Reedley Telephone Company having applied to this Commission for an order authorizing it to issue 951 shares of its capital stock at 90 cents per share for the purpose of reimbursing its treasury, and a public hearing having been held on said application and it appearing that applicant has expended from its earnings for the acquisition of property and for the construction, extension and improvement of its facilities and

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service a sum equivalent to said amount for which it now seeks permission to reimburse its treasury, and that said expenditures were not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted,

It is hereby ordered that Reedley Telephone Company be and the same is hereby authorized to issue 951 shares of its capital stock of the par value of $1.00 per share.

The authority herein granted is granted upon the following conditions and not otherwise:

1. Reedley Telephone Company shall issue said stock so as to net said company not less than 90 per cent of the par value thereof.

2. The proceeds of the issue and sale of said stock shall be used for the purpose of reimbursing applicant's treasury for income used by it for the acquisition of property or for the construction, extension and improvements of its facilities or service.

3. The stock herein authorized to be issued shall not be issued after December 31, 1916.

4. The stock herein authorized to be issued shall be considered as being a portion of the stock authorized to be issued under this Commission's Decision No. 2770 (dated September 20, 1915), and the total amount of stock issued under that decision and this shall not exceed 5,311⅑ shares.

5. Reedley Telephone Company shall keep a true and accurate record of the issue of said stock, and on or before the twenty-fifth day of the month following the said issue of said stock make a verified report to this Commission setting forth the disposition of said stock, the conditions of such disposition, and for what purposes the same was issued, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this 24th day of May, 1916.

DECISION NO. 3372.

IN THE MATTER OF THE APPLICATION OF FARMERS STORAGE COMPANY OF COLUSA FOR AUTHORIZATION TO INCREASE STORAGE RATES.

Application No. 2228.

Decided May 24, 1916.

Applicant applies for permission to increase rates. The following schedules established to become effective June 1, 1916: Rice, per season, 85 cents per ton; grain, per season, 65 cents per ton; loading out, 15 cents per ton; resacking to be charged for at the actual cost of sacks and labor.

H. F. Osgood, for Applicant.

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REPORT OF THE COMMISSION.

This is an application by Farmers Storage Company of Colusa, a corporation engaged in the warehouse business in the town of Colusa, hereinafter designated and referred to as the "warehouse company" for authority to increase its storage rates. Applicant's present rates are as follows:

Storage to December 31st	50 cents per ton
Storage for the season ending May 31st	75 cents per ton
For loading out	15 cents per ton

(The warehouse company charges the owner in addition, the actual cost of resacking.)

Under this application the warehouse company is asking authority to establish the following new rates in lieu of its existing rates, namely:

For the storage of rice, per season	85 cents per ton
For the storage of other grain, per season	65 cents per ton
For loading out	15 cents per ton

(Owner to be charged for actual cost of resacking.)

According to the evidence from 90 to 95 per cent of the grain stored is shipped down the Sacramento River by steamers. In practically all of these cases the loading out is done by the steamship companies, and no loading charges are made by applicant. Moreover, whenever an owner wishes to do his own loading, applicant allows him to do so without charge. The rates hereinafter authorized are based upon the assumption that applicant will continue these practices.

A public hearing was held at Colusa May 17, 1916. From the evidence it appears that the warehouse company operates three warehouses in Colusa, fronting on the Sacramento River, one of which it owns and two of which it leases from Colusa Warehouse Company at a rental figured in a rather complicated manner and depending upon profits earned by the applicant. This rent for the last six years has averaged $1,337.85.

The property owned by applicant consists of a block of land 260 by 320 feet, which was bought in 1903 for $1,500.00, a corrugated galvanized iron warehouse 100 by 320 feet, with a 2-inch wooden floor, scale house, scales and equipment. The improvements, including scales and other equipment, according to the testimony, actually cost the warehouse company $14,913.12, making the total original cost of all the warehouse property owned by applicant $16,413.12. The warehouse company's witnesses testified that the land is, in their opinion, now worth $4,000.00, and that the total life of the warehouse will probably be about thirty-five years. They also testified that the warehouse properties under lease were reasonably worth $30,000.00.

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Applicant has complete accounts covering receipts and operating expenses for the last six years, the average for this period, not including among the expenses any allowance for rent, interest, or depreciation, being as follows:

Receipts		$6,220 10
General expenses (including overhead, secretary's salary at $20.00 per month, taxes, etc.)	$883 05	
Maintenance (repairs, etc.)	122 44	
Labor (including manager's salary)	2,633 09	
Total		3,638 58
Balance, to cover interest and depreciation on all three warehouse properties		$2,581 52

It has been the policy of the Commission in authorizing new rates to encourage as far as practicable the assumption by the warehouse companies of all ordinary resacking expenses, and we believe that this practice will, as a rule, prove of advantage to the warehouse companies, the growers and the buyers; but in this particular case the testimony shows that the warehouse company has never had any trouble whatever with buyers over its charges for resacking, and, furthermore, that the patrons of the warehouse company would prefer having the company charge the actual cost of resacking under the rates requested rather than to have the warehouse company increase the proposed rates sufficiently to enable it to include in them the resacking charges.

Under all the circumstances we feel that the application should be granted as requested.

ORDER.

Farmers Storage Company of Colusa, a California corporation engaged in the business of operating three warehouses in the town of Colusa, having applied to this Commission for an order authorizing an increase in its storage rates, and a public hearing having been held, and said application having been submitted and being now ready for decision, we hereby find as a fact that the existing rates are noncompensatory and unreasonable, and that the rates hereinafter authorized are just and reasonable.

Basing our conclusions upon the foregoing findings of fact and upon the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that applicant be and it is hereby authorized to establish and collect the following rates:

For the storage of rice, per season ending June 1st	85 cents per ton
For the storage of other grain, per season ending June 1st	65 cents per ton
For loading out, in addition to the above rate	15 cents per ton

(Resacking to be charged for at actual cost of sacks and labor.)

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It is hereby further ordered that the collection of these rates shall be conditioned upon the rendering of first-class service as heretofore given, such as receiving, weighing in, piling, carrying in storage, and such other service as it is customary for warehousemen similarly situated to give.

It is hereby further ordered that the rates herein authorized shall not become effective earlier than June 1, 1916, nor unless applicant shall file the same in duplicate with this Commission within thirty (30) days from the date of this order.

Dated at San Francisco, California, this 24th day of May, 1916.

DECISION No. 3373.

IN THE MATTER OF THE APPLICATION OF NAPA CITY WATER COMPANY FOR PERMISSION TO ISSUE BONDS.

Application No. 2242.

Decided May 24, 1916.

Applicant authorized to issue $2,500.00 face value of bonds to be sold at not less than par, proceeds to be used for additions and betterments to plant.

H. L. Johnston, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Napa City Water Company, a corporation engaged in supplying water to the inhabitants of the city of Napa, for authority to issue and sell, at par, five of its treasury bonds of the face value of $500.00 each.

A public hearing was held at Napa May 19, 1916. From the evidence it appears that the deed of trust securing applicant's bond issue provides for a total of $100,000.00 face value of bonds, of which amount only $75,000.00 face value have actually been issued. Seven of these bonds of a total face value of $3,500.00 have been retired by applicant during the last three years, leaving a total of $71,500.00 of bonds now issued and outstanding. The company has $221,300.00 par value of capital stock issued and outstanding.

Applicant wishes to use the proceeds of the proposed issue for installing a deep well turbine pump in its pumping plant in West Napa, commonly known as Pumping Station No. 2; for substituting an 8-inch main for its present 4-inch main on Pine street between Franklin and Union streets; and for installing two new fire hydrants. In addition, at least a portion of the 4-inch pipe taken out will be relaid.

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Applicant submitted a comprehensive appraisal of the value of its physical property as of July, 1914, a brief summary of which is as follows:

Land	$14,711 00
Pumping plant	121,975 00
Distributing plant	123,609 00
General capital	3,205 00
Loss of interest during construction	3,950 00
Total	$267,450 00

The above figures are for physical properties only.

In our opinion the proposed improvements are proper and reasonable, and the application should be granted.

ORDER.

Napa City Water Company having applied to this Commission for authority to issue five of its 5 per cent treasury bonds of the face value of $500.00 each, at par, and a public hearing having been held upon said application, and the Railroad Commission finding that the purposes for which the bonds or the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income and that the application should be granted,

It is hereby ordered that Napa City Water Company be and it is hereby authorized to issue five of its 5 per cent treasury bonds of the face value of $500.00 each.

The authority herein granted is granted upon the following conditions and not otherwise:

1. Applicant shall issue said bonds so as to net said company not less than the face value of the principal thereof and accrued interest thereon.

2. The proceeds of the bonds herein authorized to be issued shall be applied substantially as follows:

Purchase and installation of deep well turbine pump	$832 50
800 feet 8-inch Class B—B. and S. cast iron pipe	907 00
Necessary fittings to connect with laterals	51 80
Lead and caulking	56 90
2 8-inch gate wells	72 00
2 fire hydrants	59 00
Labor in trenching, laying and refilling	160 00
Freight and cartage	60 00
Engineering, permit fees of city, removing present mains, changing subhydrants to post hydrants, and installing temporary connections for consumers, and miscellaneous expenses	250 00
Reimbursing of treasury	50 80
Total	$2,500 00

3. Applicant shall report to the railroad Commission within thirty (30) days after the issue of bonds herein authorized, the face value of

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the bonds so issued, the net amounts received therefor and the disposition of the proceeds thereof, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

4. This order shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act.

5. The authority herein given to issue bonds shall apply only to such bonds as shall have been issued on or before August 1, 1916.

Dated at San Francisco, California, this 24th day of May, 1916

DECISION No. 3374.

IN THE MATTER OF THE APPLICATION OF FAIRMONT WATER COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES CHARGED FOR WATER.

Application No. 2059.

Decided May 24, 1916.

REPORT OF THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

Fairmont Water Company has filed herein its petition for rehearing on this Commission's Decision No. 3312, rendered on May 8, 1916, in the above entitled proceeding. This decision was rendered on the application of Fairmont Water Company for an order authorizing the company to increase its rates for water to a portion of its consumers in and adjacent to East San Diego, San Diego County, California.

There is no allegation in the petition for rehearing that the Commission erred in the matter of finding the value of petitioner's property, or in the allowance made for maintenance and operating expenses or depreciation. The burden of the petition is that under the minimum of $1.00 per month prescribed by Decision No. 3312 herein, petitioner will not receive the revenue which the Railroad Commission intended petitioner should secure. Whether the rates established by the Railroad Commission will yield such revenue is a matter of opinion. The Commission was and is of the opinion that the rates prescribed will be fair and just to petitioner herein.

If, after a year's trial, it should develop that the rates do not yield the gross revenue referred to in Decision No. 3312 herein, petitioner may again draw the matter to the attention of the Railroad Commission.

The petition for rehearing should be denied.

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ORDER.

Fairmont Water Company having filed a petition for rehearing herein, and careful consideration having been given thereto, and no good reason appearing why such petition should be granted,

It is hereby ordered that said petition be and the same is hereby denied.

Dated at San Francisco, California, this 24th day of May, 1916.

DECISION No. 3375.

IN THE MATTER OF THE APPLICATION OF SAN JOSE WATER COMPANY AND SAN JOSE WATER WORKS FOR AN ORDER AUTHORIZING THE TRANSFER OF PROPERTY, AND THE ISSUE OF COMMON STOCK AND NOTES PAYABLE.

Application No. 2176.

Decided May 26, 1916.

Supplemental order acknowledging the filing of stipulations as required by original order and authorizing San Jose Water Works to issue four notes for $6,250.00 each in lieu of $25,000.00 note heretofore authorized, and also authorizing the issuance of $210,000.00 promissory notes to refund notes of the San Jose Water Company.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas the Railroad Commission on May 10, 1916, made its order herein authorizing San Jose Water Company to transfer its properties to San Jose Water Works, and authorizing San Jose Water Works to issue 15,000 shares of its capital stock of the par value of $100.00 per share, to execute its promissory note in the sum of $25,000.00, to issue promissory notes in the sum of $210,000.00, for the purpose of refunding promissory notes of San Jose Water Company, and to sell its capital stock at par in amounts sufficient to refund said $210,000.00 of notes and said $25,000.00 note; and

Whereas said authorization was based upon certain conditions specified in said order, to wit:

(*a*) That San Jose Water Works should agree by proper stipulation that neither it nor its successors or assigns should ever claim any value for the franchises to be transferred to it by San Jose Water Company;

(*b*) That San Jose Water Works should, by proper stipulation, assume all of the liabilities and obligations of San Jose Water Company;

(*c*) That San Jose Water Works should report the name of the payee and the terms of its proposed note in the sum of $25,000.00;

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(*d*) That San Jose Water Works should file a statement of the notes it desires to refund and the terms and conditions of the notes which it desires to issue; and

(*e*) That San Jose Water Works should obtain from the Railroad Commission a supplemental order specifying the terms and conditions of its proposed issue of stock to refund said notes in the sum of $210,000.00 and $25,000.00; and

Whereas San Jose Water Works has filed in proper form a stipulation agreeing that neither it, its successors nor assigns, will ever claim any value for the franchises to be transferred to it by San Jose Water Company, the Railroad Commission of California hereby declares that such stipulation is in satisfactory form; and

Whereas San Jose Water Works has filed a stipulation that it will assume all the liabilities and obligations of San Jose Water Company, the Railroad Commission of California hereby declares that such stipulation is in satisfactory form; and

Whereas San Jose Water Works has reported to the Railroad Commission that it proposes in lieu of one note of $25,000.00 heretofore authorized to be issued, to execute and issue four notes in the sum of $6,250.00 each, to mature at various dates, but not later than November 8, 1916, said notes to carry interest at the rate of 6 per cent per annum,

It is hereby ordered that San Jose Water Works be and it is hereby granted authority to issue four promissory notes to the First National Bank of San Jose, said notes to mature not later than December 31, 1916, and to bear interest at the rate of 5 per cent per annum.

It is further ordered that the authority herein given to issue said four notes in the sum of $6,250.00 each shall be in lieu of the authority heretofore given to issue one note in the total sum of $25,000.00; and

Whereas San Jose Water Works has notified the Railroad Commission that it proposes to assume all of the liabilities and obligations of San Jose Water Company,

It is hereby ordered that San Jose Water Works be and it is hereby granted authority to issue $210,000.00 of its promissory notes, said notes to mature not later than three years from date and to bear interest not to exceed 6 per cent per annum, to be issued to refund a like amount of notes of San Jose Water Company.

It is further ordered that San Jose Water Works be and it is hereby granted authority to issue 2,350 shares of its capital stock of the par value of $100.00 per share, said stock to be issued at par for the purpose of refunding the $235,000.00 of promissory notes herein authorized to be issued.

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It is further ordered that the authority herein granted to issue 2,350 shares of stock shall apply to such stock as shall have been issued on or before June 30, 1917.

It is further ordered that San Jose Water Works shall keep separate, true and accurate account of the sale or issue of stock and notes herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission, stating the sale or sales of said stock or notes and the property acquired in consideration of such sale or sales, all in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is further ordered that all of the conditions specified in this Commission's Decision No. 3320 herein shall remain in full force and effect in so far as they are not in conflict with the order herein.

Dated at San Francisco, California, this 26th day of May, 1916.

Decision No. 3376, grade crossing; not printed. See end of volume.

DECISION No. 3377.

C. C. FULLER ET AL.

vs.

FRESNO CANAL AND IRRIGATION COMPANY.

Case No. 919.

Decided May 26, 1916.

Complainants, receiving water through a privately-owned ditch, petition the Commission to compel defendant to take same over and operate it as part of its system. Though defendant has an option on such property, it has never exercised the same nor has it ever maintained or operated the ditch in question, accordingly the Commission has no power to compel it, at this time, to include the same as part of its system. Suggestion made that defendant make arrangements, under a reasonable payment from consumers, to take over and operate the ditch serving complainants.

Francis Cunningham and *R. Justin Miller*, for Complainants.

Short & Sutherland, by *W. A. Sutherland*, for Defendant.

REPORT OF THE COMMISSION.

The complaint herein is signed by twelve of the eighteen landowners who receive water from the system of Fresno Canal and Irrigation Company, through a ditch known as "Sand Ditch."

The complaint alleges, in effect, that complainants are the owners of lands in the counties of Kings and Fresno, to all of which lands are attached water rights under defendant's irrigation system; that prior to the acquisition of said lands by complainants, Laguna Lands, Limited, complainants' predecessor in title, entered into a contract with

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the defendant herein, by which contract defendant agreed to furnish for all the lands now owned by complainants such water as might be required, for the irrigation of said lands, not exceeding at any one time 1 cubic foot per second for each quarter section of land; that said contract between Laguna Lands, Limited, and Fresno Canal and Irrigation Company provided, in part, that all ditches constructed by the landowners might, at the option of Fresno Canal and Irrigation Company, become a branch ditch of said company and be under its control; that the only means of conveying water to and upon the lands of complainants is by a lateral ditch, commonly known as the "Sand Ditch," which ditch is a branch of one of defendant's main canals, known as "E Ditch"; that said "Sand Ditch" extends from said "E Ditch" in a westerly direction a distance of about two miles; that said "Sand Ditch," on information and belief, was constructed by said Laguna Lands, Limited, prior to the acquisition by complainants of their lands, thereafter became a branch ditch of Fresno Canal and Irrigation Company and was reconstructed, cleaned and used by said company as one of its own ditches; that complainants have performed all of their covenants, but that defendant, for more than five years last past, has failed to supply to complainants the quantity of water called for in their respective contracts; that the reason for such failure to supply to complainants the water to which they were entitled was due in part to the neglect and failure of defendant to keep the "Sand Ditch" in proper repair and to maintain the proper service for the distribution of water through said "Sand Ditch"; and that defendant has continuously charged complainants at the rate of 62½ cents per acre annually for water. Complainants ask that defendant be required to keep the "Sand Ditch," its dams, bulkheads and headgates in good condition in order to facilitate the distribution of water for irrigation to complainants, and that defendant be required to turn into the "Sand Ditch" at its intersection with the "E Ditch" the quantity of water which defendant is obligated to supply to the complainants in accordance with their contracts.

The answer denies that the "Sand Ditch" was constructed by defendant or ever became a branch ditch of defendant or was ever used by defendant; denies that defendant ever assumed control of the "Sand Ditch," or reconstructed said ditch or cleaned it or in any way used it for the purpose of conveying water for irrigation; alleges that the "Sand Ditch" is and at all times has been a branch ditch belonging to Laguna Lands, Limited, and its successors in interest, including the complainants, and that said ditch, in so far as it has been maintained, has been maintained by Laguna Lands, Limited, and its successors in interest, and not by defendant; alleges that to place the "Sand Ditch" in a condition to receive and distribute water adequately will require an

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expenditure of $4,000.00, in addition to the annual charges for the salary of ditch tender and the maintenance and upkeep of the ditch and the necessary headgates; and alleges that defendant is not now receiving from the operation of its canal system a reasonable return, and that to require defendant to assume the control and operation of the "Sand Ditch" would be unjust and inequitable. Defendant asks that the complaint be dismissed.

A public hearing herein was held on March 27, 1916, at Fresno.

The theory of the complaint herein is that the "Sand Ditch" has become a branch ditch of Fresno Canal and Irrigation Company, and that said company is hence under the duty of maintaining and operating said ditch in part compliance with its duty to the complainants in return for the payment by complainants to Fresno Canal and Irrigation Company of the annual sum of 62½ cents per acre.

The evidence in this case was confined almost exclusively to the question whether the "Sand Ditch" had become a branch ditch of defendant. On this point, the evidence clearly showed that the "Sand Ditch" was originally constructed by Laguna Lands, Limited; that it was thereafter reconstructed by C. S. Lillis, who later sold to Nares and Saunders, acting for Laguna Lands, Limited, and that the ditch has never been maintained and operated by Fresno Canal and Irrigation Company. Although the latter company has the right, under its contract with Laguna Lands, Limited, at its option, to take over the "Sand Ditch" and to maintain and operate the same as one of its own branch ditches, this option has never been exercised.

Hence, as complainants have not shown that Fresno Canal and Irrigation Company has obligated itself to maintain and operate the "Sand Ditch," and as they have made no offer to compensate Fresno Canal and Irrigation Company for the additional expenditures which would be incurred by said company in maintaining and operating the "Sand Ditch," and as no evidence was introduced to show what costs would be incurred by defendant in maintaining and operating said ditch, the complaint herein must be dismissed.

At the same time, we desire to draw attention to the fact that the present method of maintaining and operating the privately-owned ditches under defendant's system is by no means satisfactory. To a considerable extent, the landowners do not keep their own ditches in repair. Frequently they have no system among themselves for the delivery of water through their ditches, with the result that the landowners at the end of these ditches, to a considerable extent, fail to receive the water to which they are entitled. It seems entirely clear that the maintenance and operation of all these privately-owned ditches by the defendant herein would be a far more satisfactory method of

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handling the problem. As defendant has not obligated itself to perform these additional duties, it is, of course, unreasonable to direct defendant to assume these additional obligations unless defendant is fairly compensated for the additional service. In a number of instances defendant has expressed a willingness to undertake this additional service, provided that the necessary cost of such service be deposited in advance by each irrigator under the particular ditch under consideration. We suggest to the complainants herein that if each irrigator on the "Sand Ditch" is willing to pay to Fresno Canal and Irrigation Company, in advance, the additional compensation for the maintenance and operation of the "Sand Ditch" by Fresno Canal and Irrigation Company, the matter may be again drawn to the attention of the Railroad Commission or may be taken up directly with Fresno Canal and Irrigation Company.

The Railroad Commission has no power, however, under the evidence as presented in this case, to compel Fresno Canal and Irrigation Company to undertake this service.

ORDER.

A public hearing having been held in the above entitled proceeding, and the same having been submitted and being now ready for decision,

It is hereby ordered that the complaint herein be and the same is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 26th day of May, 1916.

DECISION No. 3378.

IN THE MATTER OF THE APPLICATION OF HAPPY VALLEY LAND AND WATER COMPANY FOR AN ADJUSTMENT OF WATER RATES.

Application No. 1964.

Decided May 26, 1916.

Applicant, in its petition for rehearing, objects to the stated value as applied to its public utility interests, and it appearing that the public utility property was purchased, together with considerable nonoperative property, consisting of mining claims, etc., the value of which is more or less a matter of conjecture, original order amended as requested.

REPORT OF THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

On March 30, 1916, the Railroad Commission made its order establishing a schedule of rates to be charged by applicant for furnishing water for domestic and irrigating purposes. The order provided that said rates were to become effective on the fifteenth day of April, 1916. Thereafter the effective date of the order was extended to and including

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April 30, 1916. On the twenty-ninth day of April, 1916, applicant filed a petition for rehearing and thereupon the effective date of the order was suspended during the pendency of said application for rehearing.

On pages 3 and 4 of the opinion, as the same now stands, the following statements are made, to which applicant makes objection, and which seem to us to require consideration:

1. That the actual cost of the ditch system to the present owners was less than $15,000.00.
2. That stock assessments were levied at times to cover deficits in obligations for maintenance and operation.
3. That the maximum cost of the operative property to the applicant was $25,000.00.

Applicant's chief objection to those statements lies in the fact that as to cost of the property they may be construed as a statement of the value of the same. It is true that the testimony in relation to the cost of the property is capable of two constructions, owing to the fact that the property was purchased, together with certain nonoperative property, consisting of mining claims. The value to be given that nonoperative property, upon which the record is not clear, gives rise to a difference of opinion as to what price was really paid for the operative or public utility property.

Inasmuch as the recitals set forth on pages 3 and 4 of the opinion are in the greater part historical and not strictly necessary to the decision in the case, it seems to us that the opinion may, in those particulars, be modified by inserting in lieu of the paragraphs beginning at the top of page 3 of said opinion and ending with the second paragraph on page 4, the following:

"In 1907 the Happy Valley Land and Water Company was organized, and in that year purchased from George S. Barber the property now owned and held by the said corporation as a public utility. For that property, together with certain nonoperative property purchased, a price of $30,000.00 was paid. Since the acquisition of the property the irrigating system has been overhauled, repaired and put into good condition. From the books of the company it is impossible to ascertain from the expenditures made in behalf of the company how much should be charged to capital account. Therefore, because no appraisal of the nonoperative property is shown in the record, and because it is impossible to estimate how much of the amount expended is chargeable to capital account, it is impossible to make any indisputable statement as to the cost of the system to the present owners.

The main ditch, when developed to its fullest capacity, can irrigate several thousand acres in addition to the present area served. An estimate of the reproduction cost of the property has been shown but, considering the fact that the ditch system was originally built for hydraulic

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mining use that has been terminated, it seems that the original investors did not make any expenditure in behalf of the present irrigation consumers. They built an adjunct of the then mining industry, and it can not fairly be held that their successor should be allowed a return upon an investment made for a purpose which has been fulfilled simply because it became possible to use the structure remaining for a new and different purpose. It is clear that the main ditch when developed to its full capacity can irrigate several thousand acres additional to the present area served. It does not seem equitable to require present consumers to pay a rate on the entire estimated reproduction cost. Applicant fully concedes this.

It is also apparent from the evidence in this case that if a system were being constructed for existing demands, and if the project had originally been for irrigation purposes, the result in money expended and design of the property would be very different. No attempt has been made to calculate the cost of the construction of a system that would be adequate for the present needs of the consumers. Considering, however, the development in the valley and the value of the service to the consumers, it is apparent that a return can not be allowed upon the full reproduction value of the property. To do so would make the rate prohibitive and result in the retarding of the development of that section. We believe, however, that a fair rate can be established by giving applicant its maintenance and operating expenses, depreciation and interest on the sum of $25,000.00. This valuation, as has been hereinabove stated, is not given as a statement of the cost to reproduce that property or the value which the system may have when the country is developed so that it is taxed to its capacity, but rather represents a sum that we believe to be a just and reasonable amount upon which the present consumers of the territory can afford to pay a return in consideration for the services rendered to them."

ORDER ON PETITION FOR REHEARING.

Applicant herein having filed its petition for rehearing in the above entitled matter, and careful consideration having been given to the same,

It is hereby ordered as follows:

1. That the paragraphs beginning at the top of page 3 and ending with the second paragraph on page 4 of the opinion heretofore filed on March 30, 1916, in the above entitled matter, be modified by inserting in lieu thereof that portion of the foregoing opinion which is enclosed in quotation marks.

2. In all other respects applicant's petition for rehearing herein is hereby denied.

Dated at San Francisco, California, this 26th day of May, 1916.

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DECISION NO. 3379.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WATER COMPANY FOR AUTHORITY TO RENEW A PROMISSORY NOTE FOR NINE THOUSAND DOLLARS.

Application No. 2274.

Decided May 26, 1916.

Applicant authorized to issue a 6 per cent promissory note of the face value of $9,000.00 in renewal of a note of a like amount, also to issue further notes in renewal thereof, provided the combined terms do not exceed a period of two years.

J. P. Rothwell, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Port Costa Water Company for authority to issue a promissory note to the Bank of California, National Association, in renewal of a one-day promissory note dated June 1, 1915, maturing one day after date and bearing interest at the rate of 6 per cent per annum.

Public hearings were held in San Francisco on May 22d and May 25, 1916. From the evidence it appears that applicant's total indebtedness consists of a note secured by a mortgage to the German Savings and Loan Society for $201,436.66, and a note to the Bank of California, National Association, for $9,000.00. It further appears that applicant's operative revenues for the year 1915 were $71,131.41, while its operating expenses for the same period were $31,111.57, leaving a net operating revenue of $40,019.87.

Moreover, it appears that the note for $9,000.00 represents the balance due upon notes aggregating $19,000.00 issued in 1911, which notes or the proceeds thereof were used by applicant for the acquisition of property and for the construction, extension and improvement of its facilities. Under all the circumstances we feel that the application should be granted.

ORDER.

Port Costa Water Company having applied for an order authorizing the issue of a promissory note in renewal of its one-day promissory note for $9,000.00, payable to Bank of California, National Association, bearing interest at the rate of 6 per cent per annum and dated June 1, 1915, and a public hearing having been held upon said application, and the Railroad Commission finding that the purposes for which said note or the proceeds thereof were used were not in whole or in part reasonably chargeable to operating expenses or to income, and that said application should be granted,

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It is hereby ordered that Port Costa Water Company be and it is hereby authorized to issue its promissory note for $9,000.00 to Bank of California, National Association, bearing interest at a rate not in excess of 6 per cent per annum, in renewal of the above mentioned existing note.

The authority herein granted is granted upon the following conditions and not otherwise:

1. Port Costa Water Company shall issue said note so as to net not less than the face value thereof.

2. Port Costa Water Company is hereby authorized during the period of eighteen (18) months from the date of this order to issue further notes in renewal of the note herein authorized on the same terms and conditions, provided, that the combined terms of the notes hereby authorized and those issued in renewal thereof shall not exceed two (2) years from the date of this order.

3. Port Costa Water Company shall keep a true and accurate record of the issue of said note or notes herein authorized, and shall on or before the twenty-fifth day of the month following the issue of the same make a verified report to this Commission, setting forth the fact and the date of issue, the rate of interest, the application of the proceeds, all in accordance with this Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

4. This order shall not become effective until Port Costa Water Company has paid the fee specified in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 26th day of May, 1916.

DECISION No. 3380.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE PURCHASE OF CAPITAL STOCK OF OCEANSIDE ELECTRIC AND GAS COMPANY.

Application No. 2290.

Decided May 26, 1916.

San Diego Consolidated Gas and Electric Company authorized to purchase 1,819 shares of stock of Oceanside Electric and Gas Company at $14.00 per share, provided the price paid therefor shall not be urged as a basis for rate fixing, and also provided applicant shall file a stipulation to the effect that it shall not claim a value, other than the actual cost, for any franchises or rights secured in connection with such purchase.

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Though the present revenues of Oceanside Gas and Electric Company do not appear to warrant the price paid for the stock, the San Diego Company can operate it far more economically, and the transfer will undoubtedly effect a reduction in rates with a considerable improvement in service. Question of amortizing such investment deferred pending an aplication to issue securities against the same.

Chickering & Gregory, by *Allen L. Chickering,* for Applicant.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application by San Diego Consolidated Gas and Electric Company for an order authorizing the purchase by said company of the capital stock of Oceanside Electric and Gas Company, or so much thereof as petitioner is able to purchase, at the price of $14.00 per share.

The petition alleges, in effect, that San Diego Consolidated Gas and Electric Company is engaged in the business of manufacturing and selling gas and electric energy in the city of San Diego and its surrounding territory, having a total area of about six hundred square miles in San Diego County; that petitioner's lines for the transmission of electric energy now extend north of San Diego a distance of between twenty-one and twenty-two miles, to and including the town of Del Mar; that in the city of Oceanside, some twenty miles north of Del Mar, Oceanside Electric and Gas Company is engaged in the business of selling electric energy for light, power and other purposes; that petitioner has obtained an option to purchase more than two-thirds of the issued and outstanding capital stock of Oceanside Electric and Gas Company at the price of $14.00 per share; that Oceanside Electric and Gas Company has issued a total of 1,819 shares of its capital stock of the par value of $10.00 per share, and that petitioner expects to be able to purchase practically all said capital stock; that if petitioner is successful in acquiring the capital stock of Oceanside Electric and Gas Company the property of said Oceanside Electric and Gas Company will thereafter be conveyed by said company to petitioner herein and become a portion of its system; that after the acquisition of said property petitioner expects to extend its present transmission lines from Del Mar to Oceanside, and thereafter to serve therefrom the city of Oceanside and surrounding territory and the territory between Del Mar and Oceanside; that petitioner believes that the execution of this plan will be advantageous to all parties, and particularly that petitioner expects to be able to finance more satisfactorily than is now done the construction of necessary extensions and improvements in the territory now being served by Oceanside Electric and Gas Company, and to furnish to the present consumers of Oceanside Electric and Gas Company a better and more satisfactory service; that petitioner believes that practically all the stockholders of Oceanside Electric and Gas Company are willing to sell their stock to petitioner for the price of $14.00 per share; that the

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aggregate price to be thus paid by petitioner for the capital stock of Oceanside Electric and Gas Company will not exceed the cost of said company's property; and that the liabilities of Oceanside Electric and Gas Company, to be assumed by petitioner, aggregate about $12,000.00. Petitioner asks that the Railroad Commission make its order authorizing the acquisition by petitioner of all the outstanding capital stock of Oceanside Electric and Gas Company, or so much thereof as petitioner is able to purchase at the price of $14.00 per share.

A public hearing herein was held on May 24, 1916, at which time this application was submitted.

A report on the property of Oceanside Electric and Gas Company, prepared by Assistant Engineer Thelen, was introduced in evidence and marked Railroad Commission's Exhibit No. 1.

The following table shows the investment made by Oceanside Electric and Gas Company in its property up to December 31, 1915:

TABLE No. I.

Investment in Property of Oceanside Electric and Gas Company, December 31, 1915.

1.	Real estate and buildings	$6,677 72
2.	Outside construction	6,446 00
3.	Transmission capital	5,261 74
4.	Distribution capital	726 55
5.	General capital	305 88
6.	Tools and fixtures	741 06
	Subtotal	$20,158 95
7.	Production plant	14,763 52
	Subtotal	$34,922 47
	Franchise	25 00
	Grand total	$34,947 47

The assets and liabilities of Oceanside Electric and Gas Company as of December 31, 1915, are reported by said company in its annual report to this Commission for the year 1915 to be as follows:

TABLE No. II.

Assets and Liabilities of Oceanside Electric and Gas Company, December 31, 1915.

Assets.

Fixed capital installed	$34,947 47
Cash and deposits	222 13
Due from consumers	1,762 43
Material and supplies	416 89
Prepaid taxes	201 58
Prepaid insurance	126 05
Miscellaneous (bond expense)	329 85
Total assets	$38,006 40

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Liabilities.

Capital stock	$18,190 00
Assessments Nos. 1 and 2	3,638 00
Notes payable	12,042 00
Audited vouchers, wages unpaid	249 55
Miscellaneous accounts payable	236 78
Interest accrued	229 74
Corporate surplus appropriated since December 31, 1912	1,656 43
Corporate surplus unappropriated	1,763 90
Total liabilities	$38,006 40

The following table shows the cost to reproduce new and the cost of reproduction less depreciation of the property of Oceanside Electric and Gas Company as of May 19, 1916, as estimated by Assistant Engineer Thelen:

TABLE No. III.

Estimated Cost to Reproduce and Cost of Reproduction, Less Depreciation, of the Property of Oceanside Electric and Gas Company, May 19, 1916.

	Cost to reproduce	Cost to reproduce new, less depreciation
Real estate	$8,000 00	$8,000 00
Bathhouse and electric power building	6,371 00	3,823 00
Transmission and distribution system	14,300 00	12,512 00
General capital	306 00	245 00
Tools and fixtures	741 00	445 00
Materials and supplies	417 00	417 00
Franchise	25 00	25 00
Production plant	16,979 00	3,000 00
Totals	$47,139 00	$28,467 00

The estimate of cost to reproduce less depreciation shown in Table No. III is based on a possible abandonment of the production system of Oceanside Electric and Gas Company. San Diego Consolidated Gas and Electric Company, the proposed purchaser, presented testimony to show that it will probably dispose of the bathhouse property, in which event the total estimated cost less depreciation of the operative property would be approximately $24,644.00.

The following table shows the revenues and expenses of Oceanside Electric and Gas Company for the years ending December 31, 1913,

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1914 and 1915, as reported by said company to the Railroad Commission in its annual reports:

TABLE No. IV.

Revenues and Expenses of Oceanside Electric and Gas Company for years ending December 31, 1913, 1914 and 1915.

	1915	1914	1913
Operating revenue	$7,103 15	$7,403 55	$7,113 99
Operating expenses	6,522 29	7,399 09	6,233 74
Net operating revenue	$580 86	$4 47	$880 25
Non-operating revenues—			
Bathhouse	1,929 16	1,498 55	1,835 95
Gross corporate income	$2,510 02	$1,503 02	$2,716 20
Deductions—			
Interest	$1,088 55	$935 16	$832 22
Bathhouse expense	481 94	479 78	556 16
Total deductions	$1,570 49	$1,414 94	$1,388 38
Net income	$939 53	$88 08	$1,327 82

It should be observed that Oceanside Electric and Gas Company has set aside no depreciation reserve.

The following table shows the surplus account of Oceanside Electric and Gas Company for the years ending December 31, 1913, 1914 and 1915, as reported by said company in its annual reports on file with the Railroad Commission:

TABLE No. V.

Surplus of Oceanside Electric and Gas Company for years ending December 31, 1913, 1914 and 1915.

	1915	1914	1913
Surplus beginning of year	$824 37	$736 29	$1,064 90
Net income for year	939 53	88 08	1,327 82
Surplus plus additions	$1,763 90	$824 37	$2,392 72
Deductions			1,656 43
Surplus at end of year	$1,763 90	$824 37	$736 29

Oceanside Electric and Gas Company has an authorized issue of 2,500 shares of capital stock of the par value of $10.00 per share, of which amount 1,819 shares are issued and outstanding. The issued shares were sold at par. In addition to the sum of $18,190.00 derived from the sale of its capital stock, the sums of $3,638.00, secured from two assessments on the capital stock, $12,042.00 from promissory notes of Oceanside Electric and Gas Company and corporate surplus reported by Oceanside Electric and Gas Company to be $3,420.00, have been invested in the property, thus giving a total investment of $37,290.00.

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San Diego Consolidated Gas and Electric Company has secured options on the entire issued capital stock of Oceanside Electric and Gas Company at the price of $14.00 per share. The purchaser will, of course, take the property subject to the outstanding indebtedness, which amounts to approximately $12,500.00. When this indebtedness has been paid, the investment of San Diego Consolidated Gas and Electric Company in the property as it now stands will accordingly total $37,906.00.

San Diego Consolidated Gas and Electric Company proposes to construct a transmission line from the town of Del Mar, in San Diego County, the company's present northern terminus, to Oceanside, a distance of approximately 19.3 miles by the State highway, and 18 miles by the proposed pole route, at an approximate cost of $37,000.00, and thereafter to serve the territory from the steam plant of San Diego Consolidated Gas and Electric Company, located in San Diego.

Oceanside Electric and Gas Company at present serves the territory within the city limits of Oceanside and also a portion of the San Luis Rey Valley. Service is rendered only from sundown to midnight.

Oceanside Electric and Gas Company reports that during the year ending December 31, 1915, it had 162 residence lighting consumers, 65 commercial lighting consumers, 1 municipal lighting consumer and 6 agricultural power consumers. The rate for electric lighting service is 20 cents per kilowatt hour, with a minimum charge of $1.00 per meter per month, and certain discounts for prompt payment, beginning with a 5 per cent discount on bills of $2.00 and under $5.00. The rate for power service is a block rate beginning with 8 cents per kilowatt hour for the first 100 kilowatt hours, or less, and running down to 2 cents per kilowatt hour for all electric energy in excess of 1,000 kilowatt hours, with a minimum bill of $1.00 per month per horsepower connected.

San Diego Consolidated Gas and Electric Company hopes to secure some business between Del Mar and Oceanside in and about the towns of Cardiff, Encinitas and Carlsbad, which communities at the present time are without electric service. The company also expects to secure some substantial additional pumping business in Oceanside, including approximately 100 horsepower from South Coast Land Company and 150 horsepower from the city of Oceanside's municipal steam pumping plant.

A representative of San Diego Consolidated Gas and Electric Company testified at the hearing that the company considers the rates now charged by Oceanside Electric and Gas Company as being high, and that it intends to adjust these rates. The company did not desire to make a statement at the present time as to what the new rates will be, but this matter will be fully considered by the Railroad Commission in

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Application No. 1925, being an application of San Diego Consolidated Gas and Electric Company to have the Railroad Commission establish all the rates, rules and regulations to be charged and observed by said company, which application is now pending before the Railroad Commission.

It is, of course, clear that on the basis of the earnings which Oceanside Electric and Gas Company has hitherto made, the property is worth considerably less than the amount which San Diego Consolidated Gas and Electric Company proposes to pay for it. The latter company, however, expects to make the property more valuable by giving better service at lower rates and by building up additional business. If San Diego Gas and Electric Company desires to acquire the capital stock of Oceanside Electric and Gas Company for the consideration hereinbefore stated, there is no reason, on the facts of this case, why the company should not be permitted to do so, provided no injustice is done to any class of its consumers, and that such excess cost, if any, as may hereafter be determined, is being paid in excess of the actual value of the property, shall be borne by San Diego Consolidated Gas and Electric Company itself and not by its consumers. The question as to the extent to which the investment which San Diego Consolidated Gas and Electric Company expects to make in the purchase of the capital stock of Oceanside Electric and Gas Company and in the construction of the transmission line from Del Mar to Oceanside may hereafter be capitalized by San Diego Consolidated Gas and Electric Company and the extent, if any, to which the portion of such investment shall be amortized, may well be left for consideration hereafter, when San Diego Consolidated Gas and Electric Company files a formal application for authority to issue securities against this investment.

It should be said, however, that as the result of the acquisition of Oceanside Electric and Gas Company by San Diego Consolidated Gas and Electric Company, the people of Oceanside and vicinity will undoubtedly receive a much better service at rates which we may reasonably anticipate will be materially lower than those which they have hitherto paid. Furthermore, the territory between Del Mar and Oceanside, which hitherto has had no electric service, may look forward to receiving such service from San Diego Consolidated Gas and Electric Company. San Diego Consolidated Gas and Electric Company will thus be performing a substantial public service, which fact should be borne in mind in the solution of the problems of capitalization and amortization to which reference has hereinbefore been made.

I submit the following form of order:

ORDER.

San Diego Consolidated Gas and Electric Company having filed its application, under the provisions of section 51 of the Public Utilities

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Act, for an order authorizing the purchase by San Diego Consolidated Gas and Electric Company of the entire issued capital stock of Oceanside Electric and Gas Company, consisting of 1,819 shares, at the price of $14.00 per share, and a public hearing having been held and the Railroad Commission finding that the petition of San Diego Consolidated Gas and Electric Company should be granted, subject to the conditions hereinafter set forth,

It is hereby ordered that San Diego Consolidated Gas and Electric Company be and the same is hereby authorized to purchase the entire issued capital stock of Oceanside Electric and Gas Company, consisting of 1,819 shares, for the sum of $14.00 per share, on the following conditions and not otherwise, to wit:

1. Said price of $14.00 per share to be paid for the capital stock of Oceanside Electric and Gas Company shall never be urged by San Diego Consolidated Gas and Electric Company, its successors or assigns, before the Railroad Commission or any court or other public body, as representing in any proceeding, for rate making or otherwise, the present fair value of the capital stock of Oceanside Electric and Gas Company.

2. The authority herein granted to San Diego Consolidated Gas and Electric Company to purchase the capital stock of Oceanside Electric and Gas Company shall not be effective until the Railroad Commission shall have made a supplemental order herein, reciting that San Diego Consolidated Gas and Electric Company has filed herein a stipulation, duly authorized by its board of directors, and in form satisfactory to the Railroad Commission, declaring that San Diego Consolidated Gas and Electric Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body any value for the franchises and permits of Oceanside Electric and Gas Company in excess of the actual cost of acquiring said franchises and permits by Oceanside Electric and Gas Company, which cost is represented by San Diego Consolidated Gas and Electric Company to have been the sum of $25.00.

3. On or before the twenty-fifth day of each month until all the issued capital stock of Oceanside Electric and Gas Company shall have been acquired by it, San Diego Consolidated Gas and Electric Company shall make a verified report to the Railroad Commission, stating the number of shares of capital stock of Oceanside Electric and Gas Company purchased by it and the price paid therefor.

4. The authority herein granted shall apply only to such capital stock of Oceanside Electric and Gas Company as may have been acquired by San Diego Consolidated Gas and Electric Company on or before September 1, 1916.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of May, 1916.

Decision No. 3381.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR AN ORDER AUTHORIZING THE ISSUE OF EQUIPMENT NOTES OF THE FACE VALUE OF ONE HUNDRED EIGHTY THOUSAND DOLLARS.

Application No. 2255.

Decided May 26, 1916.

Applicant authorized to issue car equipment trust notes of the face value of $180,000.00, to be sold at not less than par, proceeds to be used in part payment for thirty-two street cars, costing a total of $234,000.00; provided, that the twelve combination cars included, shall, if operated on Twelfth street, conform in construction and operation to a certain agreement entered into between applicant and Twelfth Street Property Owners' Association.

Morrison, Dunne & Brobeck, by *W. I. Brobeck,* and *H. H. Phleger,* for San Francisco-Oakland Terminal Railways.

Bacigalupi & Elkus, by *Charles Elkus,* for Twelfth Street Property Owners' Association.

Paul C. Morf, city attorney, and *Delancy Smith,* assistant city attorney, for City of Oakland.

Report of the Commission.

Thelen, *Commissioner.*

This is a request for an order authorizing the issue by San Francisco-Oakland Terminal Railways of equipment notes of the face value of $180,000.00 for the purpose of securing funds to pay in part for thirty-two new railway cars.

The petition alleges, in effect, that petitioner is engaged in the transportation of passengers for compensation in the cities and towns located on the east shore of San Francisco Bay and also between said cities and towns and the city and county of San Francisco; that petitioner desires to issue equipment notes of the face value of $180,000.00, in denominations of $1,000.00 and $500.00, said notes to bear interest at

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the rate of 6 per cent per annum, to be callable at 100½ and interest on sixty days' notice and to mature as follows:

$10,000.00, due May 1, 1917.	$10,000.00, due November 1, 1921.
$10,000.00, due November 1, 1917.	$10,000.00, due May 1, 1922.
$10,000.00, due May 1, 1918.	$10,000.00, due November 1, 1922.
$10,000.00, due November 1, 1918.	$10,000.00, due May 1, 1923.
$10,000.00, due May 1, 1919.	$10,000.00, due November 1, 1923.
$10,000.00, due November 1, 1919.	$10,000.00, due May 1, 1924.
$10,000.00, due May 1, 1920.	$10,000.00, due November 1, 1924.
$10,000.00, due November 1, 1920.	$10,000.00, due May 1, 1925.
$10,000.00, due May 1, 1921.	$10,000.00, due November 1, 1925.

That the payment of said notes is to be secured by a car trust agreement, under which a trustee will hold title to the cars to be acquired, for the benefit and security of the holders of said notes; that the total cost of the cars which petitioner desires to acquire will be $234,000.00, of which sum $180,000.00 will be secured from the sale of said equipment notes, and the remaining $54,000.00 will be provided by the daily payment by petitioner to the trustee under the car trust agreement of the sum of $200.00 per day, beginning May 1, 1916, and continuing until the balance of $54,000.00 has been fully paid; that the cars which petitioner desires to acquire consist of twenty cars costing approximately $6,000.00 each, being modern pay-as-you-enter, center entrance type cars, with steel bodies, to be used in petitioner's ordinary street car service, and twelve cars, costing approximately $9,500.00 each, so designed as to be available for petitioner's ordinary street car service, and also in a proposed express service between Oakland and Berkeley, and also in petitioner's service on Twelfth street, and elsewhere; that contracts for the purchase of said twenty street cars have not as yet been made; that said twelve combination street and interurban railway cars will either be constructed in petitioner's Oakland shops or will be purchased; that petitioner's entire proposed equipment note issue of $180,000.00 has been subscribed at par plus accrued interest, as is shown by subscription agreement attached to the petition herein and marked Exhibit "B"; and that the cars proposed to be acquired by petitioner are urgently needed in its business. Petitioner asks that the Railroad Commission make its order authorizing it to issue equipment notes of the face value of $180,000.00, and to enter into a car trust agreement to secure the payment of said notes.

A public hearing in this proceeding was held in San Francisco on May 20, 1916, at which time evidence was taken and this proceeding was submitted.

Mr. George K. Weeks, president of petitioner, testified that petitioner urgently needs twenty additional cars to be operated on petitioner's traction division, partly to take the place of existing California type street cars, the operation of which is abnormally expensive, and partly

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to take care of additional business. He testified that the twelve combination street and interurban cars are needed partly for operation on Twelfth street, in Oakland, and partly in connection with the proposed express service between University avenue, in Berkeley, and the city hall, in Oakland. If the necessary financial arrangements can be made, this express service will be inaugurated over a connecting track between the present Berkeley "Key Route" line and petitioner's San Pablo avenue line. It is hoped that in this way the headway between University avenue, Berkeley, and the city hall, Oakland, can be reduced from about thirty minutes, as at present, to about fifteen minutes.

The title to the entire thirty-two cars is to vest in the trustee under the car trust agreement until the cars have been paid for. As stated in the petition, petitioner will execute promissory notes of the aggregate face value of $180,000.00, and will pay the remaining $54,000.00 of the cost of the cars by the payment of $200.00 per day from its daily revenue, to the trustee. The terms of the car trust agreement are referred to in Exhibit No. 2, attached to the petition herein, and are set forth in full in draft of agreement of conditional sale between Anglo-California Trust Company, of San Francisco, and San Francisco-Oakland Terminal Railways, which draft was introduced at the hearing herein and marked petitioner's Exhibit "B."

At the hearing petitioner presented an income statement for the nine months ending March 31, 1916, which income statement is marked petitioner's Exhibit No. 1, and reads as follows:

Income Statement—San Francisco-Oakland Terminal Railways—9 Months, Ending March 31, 1916.

I. *Operating Income.*		Amount applicable to 9 months.
Railway operating revenues		$3,341,576 92
Railway operating expenses		2,305,637 60
Net revenue—railway operations		$1,035,939 32
Auxiliary operations—revenues		
Auxiliary operations—expenses		
Net revenue—auxiliary operations		
Net operating		$1,035,939 32
Taxes assignable to railway operations:		
On real and personal property	$4,338 17	
On capital stock		
On earnings	194,162 94	
Miscellaneous	159 76	
		198,660 87
Operating income		$837,278 45

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II. *Nonoperating Income.*

Income from lease of road	----------
Miscellaneous rent income	----------
Net income from miscellaneous physical property	----------
Dividend income	$36,985 47
Income from funded securities	590 71
Income from unfunded securities and accounts	1,122 54
Income from sinking fund and other reserves	8,459 61
Release of premiums on funded debt	----------
Contributions from others	----------
Miscellaneous income	720 17
Total nonoperating income	$47,878 50
Gross income	$885,156 95

III. *Deductions from Gross Income.*

Rent for leased roads	$225 76
Miscellaneous rents	750 01
Miscellaneous taxes	----------
Net loss in miscellaneous physical property	255 84
Interest on funded debt	637,512 27
Interest on unfunded debt	115,876 70
Amortization of discount on funded debt	----------
Income transferred to other companies	----------
Maintenance of organization—Lessor companies	----------
Miscellaneous debits	1,118 53
Total deductions from gross income	$755,739 11
Income balance transferred to profit and loss	$129,417 84

Petitioner's financial condition was considered by the Railroad Commission in Case No. 321, decided May 24, 1915 (Vol. 6, Opinions and Orders of Railroad Commission of California, p. 1023), to which decision reference is hereby made.

Mr. Weeks testified that the regulation of jitney busses by the city of Oakland had considerably improved petitioner's financial condition.

Assistant City Attorney Smith of Oakland stated that the city of Oakland has no comment to make on this application further than that the city desires to be satisfied that the twelve combination street and interurban cars hereinbefore referred to will be suitable for operation as street railroad cars under petitioner's franchise on Twelfth street, which franchise the city of Oakland claims is limited to street railway operations. On this point Mr. W. J. Handford, the Railroad Commission's service expert, testified that he had carefully examined the plans and specifications for these twelve cars and that he was satisfied that the cars would be entirely satisfactory for street car operation.

Mr. Charles Elkus, representing the Twelfth Street Property Owners' Association of Oakland, presented a memorandum of proposed agreement affecting the operation of the cars of San Francisco-Oakland Terminal Railways on Twelfth street, Oakland, which memorandum

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was signed by Mr. W. I. Brobeck, as attorney for San Francisco-Oakland Terminal Railways, and Mr. Charles Elkus, as attorney for the Twelfth Street Property Owners' Association of Oakland. This memorandum refers to the method of operation by petitioner herein of the proposed combination street and interurban cars along Twelfth street, in Oakland. The memorandum contemplates an order by the Railroad Commission approving the memorandum and likewise similar action by the city of Oakland. No action has as yet been taken by the city of Oakland. Mr. Elkus asked that the terms of this memorandum be incorporated in the Commission's order herein. The petitioner stated that such action would be satisfactory to it, provided that the time within which various acts are to be performed by San Francisco-Oakland Terminal Railways, under said memorandum, shall not begin to run until the city of Oakland has approved the terms of the memorandum. The city of Oakland heretofore, at a special election called for that purpose, voted to confer upon the Railroad Commission the city's jurisdiction over public utilities. What jurisdiction the city of Oakland now has with reference to the subject matter of the memorandum, apart from seeing to it that its franchises are not violated, is not quite clear. The matter seems to be one of the service of a public utility, as to which matter the jurisdiction would seem to be now vested exclusively in the Railroad Commission. Nevertheless, the Railroad Commission desires to do its full part in closing the controversy which has existed for a number of years over the operation of petitioner's cars along Twelfth street, in Oakland, and hence is willing to embody the terms of said memorandum in the order herein, as modified by petitioner's suggestion with reference to the running of time. This action will be taken without prejudice to the Railroad Commission's jurisdiction in the matter and subject to the Railroad Commission's power, conferred by the Public Utilities Act, of revising or amending, at any time, its orders.

I recommend that this application be granted and submit herewith the following form of order:

ORDER.

San Francisco-Oakland Terminal Railways having applied to the Railroad Commission for an order authorizing the issue of equipment trust notes of the aggregate face value of $180,000.00, bearing interest at the rate of 6 per cent per annum, payable on May 1st and November 1st of each year in installments of $10,000.00 on each of said dates, and redeemable at 100½, and to execute an agreement of conditional sale with Anglo-California Trust Company, of San Francisco, for the purpose of securing the payment of said equipment notes, and a public hearing having been held and the Railroad Commission finding that the purposes for which the proceeds of said equipment notes are to be used

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are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Francisco-Oakland Terminal Railways may issue said equipment notes, of the aggregate face value of $180,000.00, and may execute an agreement of conditional sale with Anglo-California Trust Company, of San Francisco, in substantially the form of petitioner's Exhibit "B" herein, on the following conditions and not otherwise, to wit:

1. San Francisco-Oakland Terminal Railways shall sell said equipment notes so as to net not less than their face value, plus accrued interest.

2. San Francisco-Oakland Terminal Railways shall use the proceeds of said equipment notes, in so far as necessary, only for the purpose of acquiring twenty cars to be used in said company's ordinary street car service, and twelve combination street and interurban cars, all in accordance with the description of said cars contained in the petition herein and in plans attached to the petition and marked Exhibit No. 1.

3. In so far as said twelve combination street and interurban cars are to be operated on Twelfth street, in Oakland, said cars shall be constructed and operated in accordance with memorandum of proposed agreement affecting the cars of San Francisco-Oakland Terminal Railways, on Twelfth street, Oakland, a copy of which memorandum was introduced herein and marked Exhibit No. 1 of Twelfth Street Property Owners' Association; provided, that until the further order of the Railroad Commission, if any, whenever a time is specified in said memorandum within which San Francisco-Oakland Terminal Railways shall perform some act, said time shall run from the date of the approval of said memorandum to be hereafter given by the city of Oakland.

4. San Francisco-Oakland Terminal Railways shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of equipment notes herein authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission, stating the sale or sales of said equipment notes during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with the provisions of the Railroad Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. Within thirty days from the execution of agreement of conditional sale between Anglo-California Trust Company, of San Francisco, and San Francisco-Oakland Terminal Railways, in substantially the form of petitioner's Exhibit "B" herein, San Francisco-Oakland Terminal Railways shall file herein a certified copy of said agreement.

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6. The authority herein given to issue equipment notes shall not become effective until San Francisco-Oakland Terminal Railways has paid the fee provided in the Public Utilities Act.

7. The authority herein given to issue equipment notes shall apply only to such equipment notes as shall have been issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26th day of May, 1916.

DECISION No. 3382.

IN THE MATTER OF THE APPLICATION OF CORONA GAS AND POWER COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE A ELECTRIC LIGHT COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE A FIRST MORTGAGE COVERING ITS PROPERTIES IN THE STATE OF CALIFORNIA, AND ALSO FOR AN ORDER AUTHORIZING THE ISSUE, USE AND SALE OF FIRST MORTGAGE BONDS.

Application No. 1988.

Decided May 27, 1916.

Applicant authorized to execute a mortgage covering its properties, and to issue thereunder $58,500.00, face value of 50-year 6 per cent bonds to be sold at not less than 90, proceeds to reimburse treasury for capital expenditures heretofore made and to liquidate certain floating indebtedness, funds used for reimbursement purposes to be held in a special fund and used as working capital, only, pending expenditure for future betterments or improvements.

Isaac B. Potter and *Olin Wellborn, Jr.*, for Applicant.

REPORT OF THE COMMISSION.

This is an application of Corona Gas and Electric Light Company, operating in the city of Corona, Riverside County, for authority to execute a first mortgage upon its properties and to issue bonds thereunder.

At the present time applicant desires to issue a sufficient amount of bonds at 90 per cent of their face value to net the company the sum of $52,610.89, for the following purposes:

1. To reimburse the company's treasury for moneys expended from income for additions and betterments	$33,339 05
2. To liquidate indebtedness to Nevada-California Power Company	18,849 66
3. To liquidate indebtedness to The Southern Sierras Power Company	422 18
Total	$52,610 89

Corona Gas and Electric Light Company was incorporated on July 10, 1903, under the laws of the State of California. Its articles of incorporation permit the company to engage in the manufacture of electricity, gas and ice.

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In 1911 the stock of Corona Gas and Electric Light Company was purchased by The Southern Sierras Power Company, and subsequently its gas plant and system was sold to Southern California Gas Company and its ice plant leased to National Ice Company at an annual rental of $1,000.00.

Applicant's total authorized capital stock issue consists of 500 shares of stock of the par value of $100.00 per share. All of this stock is outstanding and, with the exception of five shares necessary for qualification of directors, is held by L. C. Phipps, Jr., trustee, for the sole use and benefit of The Southern Sierras Power Company. The company has no preferred stock.

During the past five years Corona Gas and Electric Light Company has paid dividends as follows:

Year	Rate	Amount	Capital stock on which dividends were paid
1910	*	$3,300 00	*
1911	*	4,900 00	*
1912			
1913	2%	1,000 00	$50,000 00
1914	4%	2,000 00	50,000 00

*Not reported.

Applicant at one time had an authorized issue of $40,000.00 of first mortgage 5 per cent 20-year bonds secured by deed of trust to Los Angeles Trust Company. The last of these bonds were retired in 1911 and the bonded indebtedness canceled.

Applicant's property was also included within the lien of the first mortgage of The Southern Sierras Power Company. This mortgage has since been superseded by a first and refunding mortgage and at the present time the properties of Corona Gas and Electric Light Company are unincumbered. Applicant reports that it has no notes outstanding and that its only indebtedness consists of the current liabilities shown in its balance sheet for October 31, 1915, given below:

Assets.

Property.	
Property and equipment January 1, 1913	$75,814 26
Additions since December 31, 1912	21,012 58
Cash on hand and in banks	1,371 61
Accounts receivable.	
Light and power customers	2,000 13
Merchandise customers	252 20
Miscellaneous	200 00
Material and supplies on hand	2,893 01
Total assets	$103,543 79

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Liabilities.

Capital stock	$50,000 00
Current liabilities.	
Vouchers payable	928 17
Meter deposits	95 25
Taxes accrued	698 89
To associated companies on open ledger account.	
The Nevada-California Power Company	18,849 66
The Southern Sierras Power Company	422 18
Surplus.	
Surplus January 1, 1914	19,651 35
Surplus this year to date	3,727 22
Profit and loss adjusted this year (cr.)	50
Total net surplus	$23,379 07
Reserves.	
Reserves for depreciation	$8,814 03
Reserve for personal injuries	356 54
Total liabilities	$103,543 79

Following is a comparative statement showing applicant's income accounts for the years ending December 31, 1912, 1913, 1914 and 1915:

	1912	1913	1914	1915
Operating revenues	$23,601 33	$23,136 76	$24,052 69	$24,842 00
Operating expenses	24,960 23	21,653 03	20,007 52	19,681 21
Net operating revenue or loss	*$1,358 90	$1,483 73	$4,045 17	$5,160 79
Nonoperative revenues	1,467 51	1,000 20	1,006 47	1,078 25
Gross corporate income	$108 61	$2,483 93	$5,051 64	$6,239 04
Miscellaneous deductions			637 16	1,290 47
Balance for year to profit and loss	$108 61	$2,483 93	$4,414 48	$4,948 57

*Loss

Applicant's surplus account as shown by its annual report to the Commission as of December 31, 1915, is as follows:

Balance December 31, 1914	$19,651 35
Profit for year from income account	4,948 57
Miscellaneous additions to surplus	50
Balance December 31, 1915	$24,600 42

Corona Gas and Electric Light Company has heretofore purchased its energy from Pacific Light and Power Corporation at a rate of 1.6 cents per kilowatt hour. This contract expired on March 31, 1916, and applicant now obtains its energy from The Southern Sierras Power Company at a rate of 1.2 cents per kilowatt hour. Corona Gas and Electric Light Company states that the purchase of power at the lower rate will make possible a saving of approximately $1,800.00 per annum.

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The Southern Sierras Power Company also distributes electric energy at retail within the city of Corona. This situation arose during the time when Corona Gas and Electric Light Company was purchasing its energy under contract from Pacific Light and Power Corporation. Although this contract has now expired, witness for applicant stated that The Southern Sierras Power Company would continue to distribute electricity in the city of Corona, it being more convenient for operating reasons to have certain consumers served by The Southern Sierras Power Company rather than by Corona Gas and Electric Light Company.

Applicant's consumers have increased during the past three years as follows:

December 31, 1913	664
December 31, 1914	748
December 31, 1915	818

The kilowatt hours sold during the past three years were as follows:

December 31, 1913	371,115
December 31, 1914	328,436
December 31, 1915	362,665

The reduction in amount of power sold between December 31, 1913, and December 31, 1914, is accounted for by The Southern Sierras Power Company taking over a portion of the business in the city of Corona.

Applicant is operating under a franchise granted to M. W. Findley and George Brown by the city of Corona. This franchise is dated September 4, 1903, and is for a period of thirty years. It was acquired by Corona Gas and Electric Light Company on October 29, 1903. Applicant states that it has no record of the cost of acquiring this franchise, but that it is carried on its books at $1,000.00.

As heretofore stated, applicant requests authority to execute a first mortgage upon its properties and to issue bonds thereunder. Applicant has filed for the Commission's approval a copy of its proposed deed of trust to Los Angeles Trust and Savings Bank of Los Angeles and The International Trust Company of Denver, trustees. In brief the terms of this indenture are as follows:

This mortgage is of the so-called "open end" type in that it does not specify the amount of bonds which may be issued thereunder. Bonds are to be issued in series, the first bonds to be known as Series "A" bonds or first mortgage 6 per cent gold bonds. They are to be dated July 1, 1915, to mature July 1, 1965. As security for the bonds, the company pledges all of the property which it now owns or may hereafter acquire. The coupon bonds are to be in such denominations as the board of directors may from time to time determine. Registered bonds without coupons may be issued in denominations of $1,000.00, $5,000.00, $10,000.00, or such multiples thereof as the board of directors of the company may authorize. The amount of bonds authorized under

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Series "A" is limited to $1,000,000.00. Series "A" bonds are to bear interest at the rate of 6 per cent per annum, payable in January and July. Bonds of any subsequent series are to bear interest at not to exceed 6 per cent per annum. A redemption fund is provided, payable semiannually in amount equal to three-fourths of one per cent of the aggregate par value of all bonds outstanding in the year 1920 and each year thereafter until all the bonds are retired. Bonds are callable at 103 and accrued interest upon any semiannuel interest date after sixty days' notice. The holders of 30 per cent of the outstanding bonds may institute proceedings and a majority may direct proceedings for sale, foreclosure or appointment of a receiver, or may waive default. No default may be waived when the principal of the bonds has become due at maturity. It is proposed that the bonds shall be guaranteed by The Southern Sierras Power Company both as to principal and interest. As no mention of such guarantee appears in the mortgage or on the face of the bonds we shall withhold final approval of the mortgage until such guarantee has been inserted in form satisfactory to the Commission.

A valuation of applicant's physical properties made by the Commission's engineers as of December 31, 1915, is as follows:

Reproduction cost (historical)	$75,581 08
Present value	62,179 65

These figures do not include stores and supplies and cash and deposits amounting to approximately $5,832.00, nor has any allowance been made for intangibles.

In support of its application, Corona Gas and Electric Light Company has submitted a report made by Halbert P. Gillette of New York showing reproduction cost as of December 31, 1914, of $108,145.00. In this appraisal the company's total fixed capital is valued at $69,184.00. During the year 1915, the company reported additions to fixed capital amounting to $4,097.53, which will increase applicant's estimate of the reproduction value of its physical properties to $73,281.53, as compared with the value found by the Commission's engineers of $75,581.08.

As hereinbefore set forth, applicant has requested authority to issue bonds in a sufficient amount to reimburse its treasury for moneys expended from income for additions and betterments during the three years and ten months ending November 1, 1915, amounting to $33,339.05. In support of this portion of its application, the company has submitted a detailed statement of such expenditures.

Applicant states that moneys received from the sale of bonds and used in reimbursing its treasury for capital expenditures will be held as working capital and applied to further capital expenditures. The order herein made will contain a provision requiring applicant to maintain a special fund in which such moneys shall be held.

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Applicant has also asked for authority to issue bonds in a sufficient amount to refund $19,271.84 of indebtedness owing on open account to Nevada-California Power Company and The Southern Sierras Power Company, representing moneys advanced and used for capital purposes. This is a proper purpose for which bonds may be issued under the terms of the Public Utilities Act, and it appears that applicant should be allowed to issue bonds for the purpose of refunding such indebtedness.

ORDER.

Corona Gas and Electric Light Company having applied to this Commission for authority to execute a mortgage upon its properties to Los Angeles Trust and Savings Bank and The International Trust Company of Denver, trustees, and to issue first mortgage 6 per cent 50-year bonds thereunder, as hereinbefore set forth; and a public hearing having been held, and it appearing to the Commission that applicant's request is reasonable and should be granted and that the purposes for which it is proposed to issue said bonds are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered as follows:

1. Corona Gas and Electric Light Company is hereby authorized to execute a mortgage upon its properties as security for an issue of first mortgage 6 per cent 50-year bonds, upon the following conditions, and not otherwise:

(*a*) Corona Gas and Electric Light Company shall first submit to this Commission for its approval a copy of its proposed mortgage or deed of trust and secure a supplemental order from this Commission approving the same.

2. Corona Gas and Electric Light Company is hereby authorized to issue $58,500.00 face value of first mortgage 6 per cent 50-year bonds under said mortgage, or so much thereof as may be necessary for the purposes hereinafter stated, upon the following conditions and not otherwise:

(*a*) Corona Gas and Electric Light Company shall sell said bonds so as to net said company not less than 90 per cent of the face value thereof, plus accrued interest.

(*b*) The proceeds derived from the sale of said bonds shall be used only for the following purposes:

(1) To reimburse applicant's treasury for moneys actually expended from income for additions, betterments and extensions within three years and ten months prior to the first day of November, 1915	$33,339	05
(2) To liquidate indebtedness owing to Nevada-California Power Company on open account in the sum of	18,849	66
(3) To liquidate indebtedness owing to The Southern Sierras Power Company on open account in the sum of	422	18
Total	$52,610	89

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3. The proceeds from the sale of bonds herein authorized to be issued for the purpose of reimbursing applicant's treasury for moneys expended from income for additions, betterments and extensions shall be held in a special fund by applicant and used only for working capital and to defray the cost of future additions, betterments and extensions properly chargeable to capital account.

4. Corona Gas and Electric Light Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act, as amended.

6. The authority herein given to issue bonds and execute a mortgage shall apply only to such bonds as shall have been issued and such mortgage as shall have been executed on or before April 1, 1917.

Dated at San Francisco, California, this 27th day of May, 1916.

DECISION NO. 3383.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO ABANDON AGENCY AT BARBER STATION IN BUTTE COUNTY.

Application No. 2294.

Decided May 27, 1916.

REPORT OF THE COMMISSION.

This is an application on behalf of the Southern Pacific Company for permission to discontinue the maintenance of an agent at its station of Barber in Butte County on the Sacramento division, for the reason that the said station of Barber is located within the yard limits of the station of Chico, and all business heretofore transacted with the agency station of Barber can hereafter be handled satisfactorily and conveniently through the agency station of Chico. The Commission is of the opinion that this is not an application in which a public hearing is necessary.

ORDER.

Southern Pacific Company having made application to this Commission under the provisions of General Order No. 36 for permission to

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discontinue the agency station heretofore maintained at its station of Barber on the Sacramento division, the Commission being fully advised in the premises and of the opinion that this is not a matter in which a public hearing is necessary,

It is hereby ordered that this application be and the same is hereby granted, and that this order be effective as of June 10, 1916.

Dated at San Francisco, California, this 27th day of May, 1916.

Decision No. 3384, grade crossing; not printed. See end of volume.

DECISION NO. 3385.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY AND RIVERSIDE, RIALTO AND PACIFIC RAILROAD COMPANY FOR APPROVAL OF A SUPPLEMENTAL AGREEMENT RELATING TO THE JOINT OPERATION OF A CERTAIN SPUR TRACK IN THE CITY OF RIVERSIDE, RIVERSIDE COUNTY, CALIFORNIA.

Application No. 1581.

Decided May 29, 1916.

REPORT OF THE COMMISSION.

Pacific Electric Railway Company and Riverside, Rialto and Pacific Railroad Company having made application to this Commission for approval of an agreement dated December 20, 1915, a copy of said agreement having been filed as Exhibit "A" in this proceeding and setting forth the terms and conditions under which joint operation of a certain spur track in the city of Riverside, Riverside County, is to be conducted; the Commission being fully advised in the premises and of the opinion that this is not a matter in which a public hearing is necessary,

It is hereby ordered that the agreement entered into on December 20, 1915, by and between the Pacific Electric Railway Company and the Riverside, Rialto and Pacific Railroad Company, said agreement outlining the terms and conditions governing the joint operation of a certain spur track in the city of Riverside, Riverside County, be and the same hereby is approved.

Dated at San Francisco, California, this 29th day of May, 1916.

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DECISION No. 3386.

FEATHER RIVER LUMBER COMPANY
vs.
NEVADA-CALIFORNIA OREGON RAILWAY.

Case No. 845.

Decided May 29, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the above entitled matter having advised the Commission, in writing, that this application should be dismissed, it is hereby ordered that this case be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 29th day of May, 1916.

Decision No. 3387, grade crossing; not printed. See end of volume.

DECISION No. 3388.

IN THE MATTER OF THE APPLICATION OF LONG BEACH CONSOLIDATED GAS COMPANY FOR AN ORDER AUTHORIZING IT TO SELL A CERTAIN GAS PLANT TO THE SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA.

Application No. 2198.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO SELL A CERTAIN GAS PLANT TO SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA.

Application No. 2199.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL STOCK AND BONDS AND TO PURCHASE GAS PROPERTIES.

Application No. 2271.

Decided June 1, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

The Commission having heretofore made an order in these proceedings, on May 22, 1916, authorizing Southern California Edison Company to sell certain gas properties and gas franchises to Southern Counties Gas Company of California upon certain conditions, one of which was that the franchises enumerated in said order shall be transferred to Southern Counties Gas Company of California only upon condition that Southern Counties Gas Company of California shall

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receive from this Commission a supplemental order stating that Southern Counties Gas Company of California has filed with this Commission a stipulation in satisfactory form, duly authorized by its board of directors, declaring that Southern Counties Gas Company of California, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said franchises, or any of them, in excess of the original cost of said franchises, which actual cost shall be duly stated by Southern Counties Gas Company of California; and Southern Counties Gas Company of California having, on May 31, 1916, filed with this Commission a stipulation, marked Exhibit "Z," in form satisfactory to the Commission, and stating that no value shall be claimed for any of said franchises in excess of the original cost thereof, which shall in no instance be in excess of $200.00 for any one franchise,

It is hereby ordered that the form of said stipulation of Southern Counties Gas Company of California be and the same is hereby approved by this Commission; and the Commission, in said order of May 22, 1916, having authorized Southern Counties Gas Company of California to execute a mortgage of its properties to secure an authorized bond issue of $10,000,000.00, said mortgage and deed of trust to be in a form to be hereafter approved by this Commission; and Southern Counties Gas Company of California having, on May 31, 1916, filed with this Commission a form of mortgage and trust deed, marked Exhibit "Y," securing said bond issue, and having also filed, as Exhibit "X," a copy of the amended articles of incorporation of Southern Counties Gas Company of California,

It is hereby ordered that the Commission hereby gives its approval to the form of said mortgage and trust deed.

Dated at San Francisco, California, this 1st day of June, 1916.

DECISION NO. 3389.

IN THE MATTER OF THE APPLICATION OF VALLEY NATURAL GAS COMPANY FOR AN ORDER AUTHORIZING IT TO EXECUTE A DEED OF TRUST TO ANGLO-CALIFORNIA TRUST COMPANY, TO SECURE A BONDED INDEBTEDNESS IN THE SUM OF TWO MILLION DOLLARS, TO ISSUE THREE HUNDRED SEVENTY-EIGHT THOUSAND DOLLARS PAR VALUE OF BONDS, TO ISSUE TWO THOUSAND SHARES OF PREFERRED STOCK, TO ISSUE ONE THOUSAND SHARES OF COMMON STOCK, TO ISSUE A PROMISSORY NOTE FOR TWO HUNDRED FIFTY THOUSAND DOLLARS, AND TO PLEDGE SECURITIES TO SECURE THE PAYMENT OF SAID PROMISSORY NOTE.

Application No. 2172.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA NATURAL GAS COMPANY AND VALLEY NATURAL GAS COMPANY FOR AN ORDER

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AUTHORIZING CALIFORNIA NATURAL GAS COMPANY TO SELL TO VALLEY NATURAL GAS COMPANY ALL AND SINGULAR ITS PROPERTY AND ASSETS, AND OF VALLEY NATURAL GAS COMPANY TO PURCHASE THE SAME.

Application No. 2173.

Decided June 1, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

The Commission having heretofore on May 20, 1916, made an order in these proceedings authorizing Valley Natural Gas Company to issue capital stock and bonds upon certain conditions, among others the following:

"(*g*) The authority hereby given to Valley Natural Gas Company to issue capital stock and bonds shall not be effective until the Railroad Commission shall have issued a supplemental order reciting that Valley Natural Gas Company has filed herein a stipulation, duly authorized by its board of directors, and in form satisfactory to the Railroad Commission, declaring that Valley Natural Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public authority, that the capital stock and bonds of Valley Natural Gas Company herein authorized represent for rate making or other purposes the fair value of the properties of California Natural Gas Company to be acquired by Valley Natural Gas Company.

(*h*) The authority hereby given to Valley Natural Gas Company to issue capital stock and bonds shall not become effective until the Railroad Commission shall have issued a supplemental order reciting that Valley Natural Gas Company has filed herein a stipulation, duly authorized by its board of directors, and in form satisfactory to the Railroad Commission, declaring that Valley Natural Gas Company, its successors and assigns, will never ask for authority to increase the rates now being charged by California Natural Gas Company to its present consumers, by reason or as the result of the transfer of the properties of California Natural Gas Company to Valley Natural Gas Company, and that if Valley Natural Gas Company ever asks authority to increase the rates now charged by California Natural Gas Company to its existing consumers or any of them, such application will be based solely on increased costs of construction, maintenance or operation, in no way caused by or growing out of said transfer of the properties of California Natural Gas Company to Valley Natural Gas Company."

And Valley Natural Gas Company having, on May 24, 1916, filed with the Railroad Commission two stipulations in form satisfactory to the

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Commission, stipulating to the matters contained in the two conditions above quoted,

It is hereby ordered that the Railroad Commission hereby approves the form of the said stipulations.

Dated at San Francisco, California, this 1st day of June, 1916.

DECISION No. 3390.

IN THE MATTER OF THE APPLICATION OF J. A. TOWER, DOING BUSINESS UNDER THE NAME AND STYLE OF CALAVERAS TELEPHONE COMPANY, FOR AN ORDER AUTHORIZING CERTAIN INCREASES IN RATES FOR TELEPHONE SERVICE.

Application No. 1929.

Decided June 1, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas on May 15, 1916, this Commission by Decision No. 3333, dismissed the application in the above entitled matter and further ordered that applicant should cease discriminating between subscribers and nonsubscribers for telephoning over applicant's toll lines; and

Whereas applicant did on the twenty-second day of May, 1916, file with this Commission a new application requesting authority to establish rates for service over his toll lines, which application is numbered 2299; and

Whereas the hearing of said last mentioned application has been set for June 13, 1916,

It is hereby ordered that the effective date of that portion of the original order in the above entitled matter referring to the ceasing of discrimination shall be extended two (2) months from and after the effective date of the original order.

It is hereby further ordered that all the provisions of this Commission's order in the above entitled matter, dated May 13, 1916 (Decision No. 3333), shall remain in full force and effect except as modified or amended by this order.

Dated at San Francisco, California, this 1st day of June, 1916.

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Decision No. 3391, grade crossing; not printed. See end of volume.

DECISION NO. 3392.

IN THE MATTER OF THE APPLICATION OF CHINO WATER COMPANY FOR PERMISSION TO DISCONTINUE DELIVERING WATER ABOVE SEVEN INCHES, WHEN PUMP IS OPERATED, TO OWNERS OF C. C. JOHNSON TRACT.

Application No. 2221.

Decided June 2, 1916.

Water utility relieved of its obligation to serve additional water in excess of prescribed amounts to a limited number of consumers on a certain tract who have a supply available from another source.

That the obligation to supply varying amounts of water at irregular intervals occasions a loss to applicant, and though consumers are adverse to giving up their right to this water, as another source is available for their needs, application granted.

S. C. Bonner, for Applicant.

W. V. Whaley and *Fred R. Lewis,* for consumers Johnson Tract.

G. C. Seitel, for City of Chino.

H. W. Johnston, for Pomona Consolidated Water Company.

REPORT OF THE COMMISSION.

Applicant applies for authority to discontinue service of additional irrigation water to a group of nine consumers owning the C. C. Johnson Tract of 29 acres, in the northeasterly part of the city of Pomona, Los Angeles County.

Applicant admits an obligation, subject to which it purchased its plant, to deliver to the reservoir of said consumers the first seven miner's inches of water pumped from its well on the said tract, when its pump is operated, but it seeks authority to discontinue occasional service to these consumers of additional water.

Applicant's entire water supply is pumped from a 12-inch well on said tract into a concrete sump 8 feet by 4 feet by 5 feet, from which it is conveyed through a 7-inch pipe line into a cement covered reservoir 6 feet deep and 42 feet in diameter, located on the tract about 400 feet from its pump house, from which reservoir it is taken by a local organization of owners of the tract. A 16-inch pipe line conveys water about eight miles into a large cement reservoir belonging to the city of Chino, located on the west side of Central avenue, near Phillips boulevard, in the city of Chino, San Bernardino County, and also to applicant's cement reservoir across Central avenue from it.

It pumps from 52 miner's inches to 80 miner's inches. It is now under contract made with the Pomona Valley Protective Association, a corporation, not to take from a specified territory in the city of Pomona, in which its well is located, more than 65 miner's inches of

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water. This agreement, which is dated March 31, 1913, is the result of a compromise of a dispute as to the ownership of the underground waters of the vicinity. Additional supply can be readily developed in Chino by a new well.

In addition to the obligation to serve the C. C. Johnson Tract with 7 inches of water, applicant says it is under obligation by decree of the Superior Court of San Bernardino County to serve 16.64 miner's inches to owners of 166.4 acres of land to which said water is declared appurtenant by said decree; and is also under obligation to serve 21.5 inches to the city of Chino under contract made December 1, 1909. The further service of water by applicant is confined almost entirely to its stockholders. It has for a number of years served water to John Lyter and H. W. Stanton, neither of whom are stockholders. This service to nonstockholders which applicant had proposed to discontinue, was continued during the irrigation season of 1915, as a result of informal complaints made to the Commission, and adjusted through correspondence.

Applicant's officers and stockholders are ranchers in the vicinity of Chino, located about eight miles from the well and pump, and they have not the facilities to conveniently pump, measure and bill the occasional service of water in excess of the 7 inches. It also feels it has not sufficient water to supply the extra demands. Its pump is operated by electric power and it has an arrangement by which the pump may be started and stopped by a man living in Pomona and employed by another company. His services are not available for irregular occasions.

Prior to January 30, 1912, applicant served such additional water to owners of said Johnson Tract, who, under the practice then existing, took water when they needed it in such amounts as they chose and reported by mail to applicant at the end of the season the amount which they had taken with a voluntary statement of their indebtedness, which was usually settled by enclosing a check. They quit using the service of applicant without notice.

Since January 30, 1912, the tract owners have been purchasing additional water above the 7 inches furnished by applicant, from Pomona Consolidated Water Company, which has at all times supplied their needs with reasonable promptness at the rate formerly paid applicant, of 2 cents per inch per hour. Extra water is purchased by owners in the tract about twice each season by each owner. The company has heretofore experienced considerable mechanical difficulty in supplying the water needed in such limited amounts, but has now so arranged that the amounts needed can be served without such difficulty.

The superintendent of that company testified that it probably has sufficient water to supply the extra needs of the consumers in question,

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and has at all times heretofore been able to do so and is hereafter willing to do so, provided it has sufficient water at the times it is required, and that such service will not interfere with service to its own regular patrons.

On one occasion, on March 21, 1915, such water was furnished by applicant when one of the Johnson Tract owners telephoned for an immediate run of 20 inches of water for 14½ hours, which was furnished to him and subsequently paid for by him. On May 24, 1915, he furnished applicant a list of owners in the tract, giving dates on which each owner desired water. Applicant refused to furnish additional water as requested.

The position of the consumers on the Johnson Tract is that while the Pomona Consolidated Water Company can probably supply their needs better than applicant can, they do not wish to surrender any right they may have to be supplied by applicant.

Applicant was incorporated October 20, 1905, for the purpose, among other things, of selling and furnishing water and water rights and providing such facilities as may be necessary for the purpose. It did not seek to confine the service of water to its stockholders. In practice it has furnished water to the city of Chino and to Messrs. Stanton and Lyter during several years, as well as to its stockholders.

As the Pomona Consolidated Water Company is in a position to satisfactorily serve the owners of the Johnson Tract with extra water when needed, and has heretofore assumed that obligation, as such owners seem to prefer that service, and as the obligation to be always ready for such occasional service would place upon applicant and its consumers an increased burden with no assurance of any benefit or compensation from such readiness to serve, we think the application should be granted.

ORDER.

Chino Water Company having applied to the Railroad Commission for authority to discontinue occasional service of water to owners of the C. C. Johnson Tract in addition to its admitted obligation to deliver to them 7 miner's inches of water during times when its pump is being operated, and a public hearing having been held thereon and it appearing to be for the public interest that the application should be granted,

It is hereby ordered that Chino Water Company be and it is hereby authorized and empowered to discontinue the occasional service of water to owners of the C. C. Johnson Tract in addition to its admitted obligation to deliver 7 miner's inches of water to them during times when its pump is being operated.

Dated at San Francisco, California, this 2d day of June, 1916.

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DECISION No. 3393.

IN THE MATTER OF THE APPLICATION OF STOCKTON TERMINAL AND EASTERN RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE RENEWAL OF FOUR NOTES OF ONE THOUSAND DOLLARS EACH, AND TO PLEDGE CERTAIN BONDS.

Application No. 2236.

Decided June 2, 1916.

Applicant authorized to issue four promissory notes of the face value of $1,000.00 each, also to pledge bonds at the ratio of 2 to 1 as security therefor.

J. A. Nesbitt, for Applicant.

REPORT OF THE COMMISSION.

The application, as amended, of Stockton Terminal and Eastern Railroad Company, a corporation engaged in the business of constructing and operating a commercial railroad in Stockton, San Joaquin County, easterly toward Jenny Lind, in Calaveras County, requests an order authorizing it to renew four certain promissory notes as set forth in the order following this opinion and authority to pledge $2.00 par value of applicant's bonds as security for each $1.00 face value of notes so issued or renewed.

A public hearing was held in Stockton May 24, 1916. From the evidence it appears that applicant's articles of incorporation authorize a capital stock of $600,000.00, divided into 6,000 shares of the par value of $100.00 each. Of this stock, 2,639 shares are issued and outstanding. Applicant on April 1, 1911, executed to Mercantile Trust Company of San Francisco as trustee a first mortgage deed of trust covering all the property then owned by applicant, or to be acquired by it during the life of said deed of trust, to secure a bond issue of $500,000.00 of 6 per cent bonds, of which $84,400.00 face value have been issued and sold by applicant. In addition, $2,500.00 face value of bonds have been subscribed for but have not been issued. A total of $877.06 has been paid on account of said $2,500.00 face value of bonds, but there appears to be little prospect of the balance being paid. Moreover, under the terms of the subscription agreements, the subscribers have the option of demanding the return of their part payments, less the selling expenses upon cancelling their subscriptions. Applicant, further, has the fol-

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lowing notes outstanding, secured by a total of $64,500.00 face value of its bonds:

Date	Payee	Amount
July 25, 1912	Andrew McCormick and F. J. Dietrich	$5,500 00
July 25, 1912	Andrew McCormick and E. F. Davis	5,500 00
July 25, 1912	Stockton Savings and Loan Society	5,500 00
Oct. 8, 1912	Andrew McCormick, E. F. Davis and F. J. Dietrich	5,500 00
July 25, 1912	First National Bank of Stockton	5,000 00
May 16, 1913	Farmers and Merchants Bank of Stockton	500 00
May 16, 1913	Commercial and Savings Bank of Stockton	1,000 00
May 16, 1913	Stockton Savings Bank	1,000 00
May 16, 1913	Union Safe Deposit Bank	1,000 00
May 16, 1913	San Joaquin Valley Bank	1,000 00
	American Engineering Corporation	1,006 35
	Total	$32,506 35

Suit has been brought for the collection of the first five notes above set forth, of the total face value of $27,000.00, and for the foreclosure and sale of the $54,000.00 face value of bonds securing the same.

Applicant has in addition the following outstanding unsecured notes:

Date	Payee	Amount
Sept. 10, 1913	Southern Pacific Company	$885 58
Oct. 18, 1913	The United Investment Company	1,600 00
Jan. 7, 1914	The United Investment Company	1,450 00
Jan. 21, 1914	The United Investment Company	300 00
Apr. 1, 1914	H. J. Coffill (The United Investment Company)	400 00
May 19, 1914	Julius Heyman Company	548 62
Aug. 12, 1914	The United Investment Company	1,500 00
Apr. 1, 1915	A. A. Grant	298 46
June 15, 1915	John Beretta	100 00
July 8, 1915	J. W. Willy	100 00
July 15, 1915	J. Bonicalzi	20 00
July 15, 1915	R. Evans	50 00
Aug. 3, 1915	Harry Coffill	210 00
Jan. 8, 1916	E. P. Foltz	275 00
Feb. 14, 1916	Southern Pacific Company	739 66
Feb. 14, 1916	Southern Pacific Company	800 00
Feb. 26, 1916	The United Investment Company	650 00
Feb. 26, 1916	The United Investment Company	3,006 58
Apr. 4, 1916	J. H. Dorman	427 40
	Total	$13,361 30

Applicant also owes a total of $10,592.80 to a large number of creditors upon outstanding accounts.

In October, 1915, applicant levied a 10 per cent assessment upon its outstanding stock and in November, 1915, it levied another stock assessment of the same amount. Of the $52,780.00 due upon these two assessments, only about $17,000.00 had been paid up to May 1, 1916.

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Applicant has instituted suits against a number of its stockholders and expects to collect an additional $23,000.00 from the assessments, but this seems to us altogether too high an estimate.

Applicant submitted a statement of the following payments made from the proceeds of the assessments:

On secured notes	$500 00
On unsecured notes	1,574 14
On indebtedness to The United Investment Company	4,206 58
On various small accounts	5,157 52
Cashing pay checks incurred in operating	2,806 45
Payment on account of right of way (to Amelia Rosenbuth)	507 76
Two additional notes and interest	207 60
Sundry bills	176 10
Total	$15,136 15

It further appears that applicant's earnings, as well as its general finances, are in a most unsatisfactory condition; and if this were an application for authority to issue notes for any other purpose than to renew existing notes, we should be disinclined to grant it. Considering the fact, however, that these notes were originally issued in 1913 for capital expenditures, and that the bonds securing the same were pledged under the authority of the Commission, we feel that the payees should not be prevented from having their notes renewed by applicant, provided, with full knowledge of the facts, they desire such renewals.

ORDER.

Stockton Terminal and Eastern Railroad Company having applied to the Railroad Commission of the State of California for an order authorizing the issue of four notes, of the face value of $1,000.00 each, for the purposes of renewing the notes hereinafter set forth, and for authority to pledge certain bonds as security therefor, and a public hearing having been held on said application, and the Commission finding that for the reasons set forth in the foregoing opinion the application should be granted, subject to the conditions hereinafter specified,

It is hereby ordered that Stockton Terminal and Eastern Railroad Company be and the same is hereby authorized to issue its four promissory notes of the face value of $1,000.00 each, bearing interest at the rate of 6 per cent per annum, for the purpose of renewing the following notes:

Date	Payee	Rate of interest	Amount
May 16, 1913	Commercial Savings Bank of Stockton	6%	$1,000 00
May 16, 1913	Stockton Savings Bank	6%	1,000 00
May 16, 1913	Union Safe Deposit Bank	6%	1,000 00
May 16, 1913	San Joaquin Valley Bank	6%	1,000 00
	Total		$4,000 00

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It is hereby further ordered that Stockton Terminal and Eastern Railroad Company be and the same is hereby authorized to pledge as collateral security for the notes herein authorized to be issued its first mortgage 6 per cent 30-year gold bonds now securing the notes to be renewed, upon such a basis that the security shall never exceed $2.00 face value of bonds for each $1.00 face value of said notes issued and outstanding.

The authority herein granted is granted upon the following conditions and not otherwise:

1. Stockton Terminal and Eastern Railroad Company shall issue said notes so as to net not less than the face value thereof.

2. Stockton Terminal and Eastern Railroad Company is hereby authorized during the period of one year from the date of this order to issue notes in renewal of those herein authorized, and to pledge said bonds as collateral security therefor in the same amounts and under the same conditions as above set forth, provided that the combined terms of the notes hereby authorized and those issued in renewal thereof, respectively, shall not exceed one year from July 1, 1916.

3. When the bonds herein authorized to be pledged are returned to applicant's treasury, they shall not again be issued unless the consent of this Commission shall first have been secured.

4. Stockton Terminal and Eastern Railroad Company shall keep a true and accurate record of the issue of the notes herein authorized, and shall, on or before the twenty-fifth day of the month following the issue of the respective notes, make a verified report to this Commission, setting forth the fact and the date of issue, the face value of the respective notes, the rate of interest and the application of the proceeds, all in accordance with this Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

5. The authority hereby given to issue notes and bonds shall apply only to such notes and bonds as shall have been issued on or before August 1, 1916.

Dated at San Francisco, California, this 2d day of June, 1916.

DECISION NO. 3394.

IN THE MATTER OF THE APPLICATION OF JOHNSTONE-LA VERNE WELL COMPANY FOR AN ORDER AUTHORIZING IT TO CONVEY CERTAIN REAL PROPERTY.

Application No. 2273.

Decided June 2, 1916.

Applicant authorized to transfer certain water properties to the San Dimas Water Company in exchange for $10,000.00 face value of bonds of the latter company.

James S. Bennett, for Applicant.

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REPORT OF THE COMMISSION.

Applicant applies to the Railroad Commission for authority to sell to San Dimas Water Company its wells, pumping plant and equipment. The proposed purchase price is $10,000.00 face value of first mortgage bonds of the purchaser, a mutual water company.

Applicant's property was originally installed by James A. Johnstone, who formerly owned four orange groves near San Dimas, Los Angeles County, served by the plant which was located on what is known as the home place. He subsequently sold the home place, and with the property granted the first right to use eight inches of water from the two wells. He granted with each of the three other groves transferred, the right to use two inches of water from these wells, expecting to later organize a mutual water company and issue its stock in lieu of said rights.

On March 4, 1912, he incorporated applicant with a capital stock of sixty-four thousand dollars ($64,000.00), divided into six hundred and forty (640) shares of the par value of one hundred dollars ($100.00) each, representing one inch of water to eight shares of stock to be placed on eight acres of land. Its articles of incorporation, however, do not limit service of water to its stockholders. He conveyed to applicant the parcel of ground 32 x 132 feet, on which is located the two wells in question, together with the pumping plant and equipment. In payment for the property transferred, applicant issued to him all of its capital stock. Of this stock, 64 shares were placed by him in applicant's treasury in anticipation of subsequently issuing it in exchange for the water right of eight inches deeded with the home place. The owner of each of the three groves holds sixteen shares of applicant's stock and James A. Johnstone holds five hundred and twenty-four of its shares, each of the other four shares being held in trust for him. The value of the property in question is stated to be about $10,000.00. No valuation of it has been made, however.

Both before and after the organization of applicant, water was served for compensation on various occasions to stockholders of San Dimas Water Company. The plant in question has been operated by San Dimas Water Company for most of the time since applicant's organization under an arrangement by which the four groves were served with water, the company using the surplus. An arrangement has now been made by which the stockholders owning the three groves have agreed to exchange their stock on the basis of sixteen shares to ten shares of stock in San Dimas Water Company, and to convey to said company their rights to water under their deeds. They will thus be served equally well. All of the other stockholders have signed and filed written consent to the transfer. It is proposed to convey the property subject to conveyance of the eight miner's inches of water for the home place.

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ORDER.

Johnstone-La Verene Well Company having applied to the Railroad Commission for authority to convey its wells and pumping plant to San Dimas Water Company in exchange for $10,000.00 face value of first mortgage bonds of the latter company, and a public hearing having been held thereon and there being no objection made to said application, and it appearing to be for the public interest that it be granted,

It is hereby ordered that Johnstone-La Verne Well Company be and it is hereby authorized and empowered to convey hereafter free from indebtedness to San Dimas Water Company the property described in draft of proposed deed, a copy of which is attached to the application, and to execute and deliver deed in said form.

Said order is upon the following conditions and not otherwise:

1. The authority hereby given to convey said property in exchange for said bonds shall not be considered before this Commission or any other public authority as representing for any purpose other than the present application the actual value of the property authorized to be conveyed.

2. The authority hereby granted shall apply only to such property and rights as shall have been transferred and such bonds as shall have been issued on or before sixty (60) days after the date hereof.

3. Within twenty (20) days after the transfer herein authorized shall have been made, applicant shall report said fact to this Commission in writing and supply copy of instruments of transfer of said property.

Dated at San Francisco, California, this 2d day of June, 1916.

DECISION NO. 3395.

WILLIAM LEHMAN ET AL.

vs.

THE TRUCKEE RIVER GENERAL ELECTRIC COMPANY.

Case No. 939.

Decided June 2, 1916.

Principal causes of complaint having been remedied by defendant with the exception of the allegation as to the purity of water, and it appearing that below the point of pollution water is used for irrigation only with the exception of one consumer who arbitrarily uses water, purchased for irrigation purposes, for domestic use, which consumer does not pay a rate for such domestic service, complaint dismissed, as defendant can not be held liable for water used for domestic purposes when it receives no return therefrom.

Ben P. Tabor, for Complainants.

Goodfellow, Eells, Moore & Orrick, by *C. J. Goodell,* for Defendant.

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REPORT OF THE COMMISSION.

The complaint as amended at the hearing held at Cool, El Dorado County, alleges that defendant's flumes and ditches are in such poor repair that they do not carry sufficient water to the complainants who are irrigators served by defendant; that 100 miner's inches or more of water is lost through such neglect; that in two places water escaping from defendant's system injures the public road and the traveling public; and also that manure is allowed to get into defendant's ditch from the ranch of J. M. Steever, one of the complainants, near Cool.

The answer alleges that the flumes and ditches in question have been repaired since the filing of the complaint in the particulars complained of; that they now carry sufficient water; that the manure does not get into the ditch through its neglect; that the water below the point of pollution is not sold for domestic use but only for irrigation; and that the pollution can be prevented by the expenditure of about $10.00.

At the hearing, plaintiffs admitted most of the allegations of the answer, the issues being limited by agreement of the parties to the questions of the pollution of the water and its escape and injury of the public roads in two places. It was admitted that the loss of water at the places mentioned, which was first complained of by amendment at the hearing, was not sufficient in extent to interfere with the service to complainants. Defendant gave assurance, however, that its ditch and flume would be repaired at the two points mentioned, thus removing said causes of complaint. On the remaining question of the pollution of water, the only controversy arises as to the duty of defendant to furnish pure water for domestic uses.

Defendant is engaged in serving water for domestic purposes to the inhabitants of Georgetown, far above the point of pollution. All of its regular service below that point is for irrigation use, which the parties agree would not be injuriously affected by the pollution complained of. The only consumer below the point of pollution who uses the water for any domestic purposes is complainant, William Lehman. Defendant has provided no means for domestic service in the vicinity of Mr. Lehman's home. Its schedule of rates filed with the Commission does not include any rates for domestic purposes except in Georgetown. He laid a 2-inch pipe and takes water from defendant's main canal through the 2-inch pipe to his house about 1,500 feet away and stores it in a tank. He installed a ¾-inch pipe through which the water is taken from the tank and distributed through his house, in which are installed all of the modern conveniences for the domestic use of water, and where it is used for bathing, laundry, toilet and cooking purposes, but not for drinking. Drinking water is supplied from a nearby spring. The

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testimony does not show that water from the spring or other similar sources could not also be used for cooking and other domestic purposes. Mr. Lehman purchases two inches of water which is stated in his application for service to be for irrigation use between May 1st and September 30th, for which he pays the established rate of $30.00 per inch for the season. He testified that he asked Mr. Devore, defendant's superintendent, if defendant would serve him water for domestic purposes, and Mr. Devore replied that he thought they would, and if so that the rate would be about $1.00 a month extra—he did not know exactly. Mr. Lehman replied that he thought the rate too high, and that he paid enough when he paid $30.00 an inch for water. Without further discussion he subsequently piped his house for domestic water with the knowledge of Mr. Devore and has been using the water in his house as stated ever since. Defendant offered no testimony.

It is clear that defendant did not offer or agree to serve water for domestic purposes and is not paid therefor. There being no obligation upon defendant to serve domestic water, polluted or pure, we can not properly require it to remove the cause of pollution. No doubt the pollution can be prevented by private arrangement between Mr. Lehman and Mr. Steever and at a very small expense.

ORDER.

A public hearing having been held in the above entitled case and the same having been submitted and it being now ready for decision,

It is hereby ordered that the complaint herein be and it is hereby dismissed.

Dated at San Francisco, California, this 2d day of June, 1916.

DECISION No 3396.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE EXECUTION OF A TRUST DEED AND THE ISSUANCE OF BONDS SECURED THEREBY.

Application No. 2269.

Decided June 2, 1916.

Applicant authorized to execute a mortgage securing an authorized issue of $3,500,000.00 face value of bonds, and to issue thereunder at the present time $1,000,000.00 face value, to be sold at not less than 91, proceeds to be used to retire applicant's outstanding bonds of the face value of $824,500.00, and to reimburse treasury for capital expenditures amounting to $25,375.00.

William G. Griffith, for Applicant.

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REPORT OF THE COMMISSION.

This is an application of Santa Barbara Gas and Electric Company for authority to execute a mortgage of its properties and to issue $1,000,000.00 of bonds.

The applicant is engaged in the generation and distribution of gas and electricity in and about the city of Santa Barbara. Its affairs have heretofore been reviewed in detail by this Commission in connection with authorizations heretofore given for the issue of bonds. (Opinions and Orders of the Railroad Commission of California, Vol. 3, Decision No. 789, page 95, and Vol. 6, Decision No. 2182, page 247.)

The stock of the applicant is controlled by Southern California Edison Company. The applicant filed a statement with this Commission alleging the original cost of its properties as of March 31, 1916, to have been $1,338,385.53. In this connection it submitted the following condensed statement of assets and liabilities as of March 31, 1916:

Assets.

Fixed capital.			
Intangible—			
Organization		$6,572 47	
Franchises		875 30	
Total intangible			$7,447 77
Tangible—			
Plant			1,289,559 47
Material and supplies			27,585 10
Automobiles			884 38
Sinking and other funds			76 50
Deferred assets—			
Prepaid taxes		$3,642 39	
Prepaid insurance		1,703 34	
Prepaid interest		1,062 50	
Miscellaneous prepaid items (clearing accounts)		2,800 89	
Other suspense		47 30	
Total deferred assets			9,256 42
Balance of current assets over current liabilities.			
Current assets—			
Cash		$21,127 71	
Special deposits		100 00	
Accounts receivable		31,564 93	
Total current assets		$52,792 64	
Current liabilities—			
Accounts payable	$23,715 41		
Consumers deposits	12,685 93		
Interest accrued	12,648 61		
Taxes accrued	166 80		
Total current liabilities		49,216 75	
Balance current assets over current liabilities			3,575 89
Total assets			$1,338,385 53

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Liabilities.

Funded debt	$842,500 00	
Notes payable	130,000 00	
Total liabilities		972,500 00
Excess of assets		$365,885 53
Capital stock.		
Preferred stock—par value	$400,000 00	
Common stock—par value	400,900 00	

For the year ending April 30, 1916, Santa Barbara Gas and Electric Company reported the following revenues and expenses:

Operating revenue.	
Electric	$214,935 21
Gas	129,760 11
Total operating revenue	$344,695 32
Operating expenses.	
Electric	$105,233 15
Gas	73,287 43
Total operating expenses	$178,520 58
Net operating revenue	$166,174 74
Less uncollectible bills	1,973 24
Balance	$164,201 50
Net nonoperating revenue	860 64
Total net revenue	$165,062 14
Less reserve for accrued depreciation	50,000 00
Balance applicable to interest and surplus	$115,062 14
Fixed charges—	
Bond interest	$49,448 00
Other interest	4,121 16
Amortization of debt discount and expense	1,393 02
Rent of conduits, poles, etc.	71 06
Total deductions	$55,033 24
Balance	$60,028 90

The applicant proposes to execute a mortgage to secure a total authorized bonded indebtedness of $3,500,000.00, and to issue and sell at this time bonds in the amount of $1,000,000.00. It has a conditional contract for the sale of these bonds at 91 per cent of face value which will net a total of $910,000.00. It is proposed to apply the proceeds as follows:

To retire $842,500.00 of present issue of outstanding bonds at 105 per cent of face value	$884,625 00
To reimburse treasury for capital expenditures from income	25,375 00
Total	$910,000 00

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The applicant has outstanding $842,500.00 in bonds under a trust deed which admits of a total issue of $1,000,000.00. As the company has also a floating indebtedness of $130,000.00, and intends to make further additions to its property, it is under the necessity of arranging a new financial medium to take care of its necessities. The present issue of bonds bears 6 per cent interest. Part of this issue was authorized by the Railroad Commission to be sold at 95 per cent of face value. These bonds command a high figure in the market and the applicant asserts that it will be necessary to pay the call price of 105 to redeem them.

The bonds which the applicant proposes to issue will carry 5 per cent interest. This issue will be dated July 1, 1916. Bonds in the sum of $210,000.00 will mature serially at the rate of $10,000.00 per annum, from 1920 to 1940, inclusive. The remaining bonds will mature in 1941.

The deed of trust securing the proposed new issue of bonds provides that $1,000,000.00 may be issued immediately, and the remaining $2,500,000.00 hereafter to pay for 80 per cent of the cost of additions and betterments, provided the net earnings of the company shall have been for the year previous twice the interest on the bonds outstanding and on the bonds to be issued. The trust deed provides further that these bonds may be redeemed on or after July 1, 1917, at 103, plus accrued interest. Provision is made for a special trust fund of 1 per cent annually of all of the bonds which may be issued. This trust fund may be used either for additions and betterments or for the redemption of bonds. In addition, a sinking fund is created to consist of 1 per cent annually of all of the bonds which may be issued in excess of the first $1,000,000.00. This sinking fund must be applied toward the redemption of bonds.

The applicant has operated at a profit over a period of years. It paid a 6 per cent dividend on its preferred stock issue of $400,000.00 in 1911 and 1912, amounting to $24,000.00 per annum. In 1914 and 1915 it paid a 5 per cent dividend on the preferred stock. Dividends were paid on the $400,000.00 par value of common stock as follows: one-half of 1 per cent in 1911; 3 per cent in 1914; 4 per cent in 1915.

The applicant reports a surplus of $57,131.89.

We find that the applicant has reinvested from its income a sufficient amount to warrant reimbursement in the sum of $25,375.00, as requested. The present application is primarily an application to refund an outstanding issue of bonds. Under the new plan of finance, Santa Barbara Gas and Electric Company will be enabled to borrow money more advantageously than at present.

Although no complete valuation has been submitted in connection with this application, I believe the showing of original cost is sufficient to

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justify the issue herein requested. I therefore recommend that the application be granted and submit the following form of order:

ORDER.

Santa Barbara Gas and Electric Company having applied to this Commission for authority to execute a mortgage of its properties and to issue $1,000,000.00 face value of bonds, and a hearing having been held and it appearing that the purposes for which the applicant proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses of to income,

It is hereby ordered that Santa Barbara Gas and Electric Company be granted authority, and it is hereby granted authority, to execute a mortgage of its properties to Los Angeles Trust and Savings Bank substantially in a form as set forth in Exhibit "A" attached to the application herein, to which reference is hereby made.

It is further ordered that Santa Barbara Gas and Electric Company be granted authority and it is hereby granted authority to issue $1,000,000.00 face value of its 5 per cent first mortgage bonds under said mortgage and deed of trust to Los Angeles Trust and Savings Bank.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The approval herein given of said mortgage is for the purpose of this proceeding only and an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

2. The bonds herein authorized to be issued shall be sold to net the applicant not less than ninety-one (91) per cent of the face value thereof, plus accrued interest.

3. The proceeds from the sale of the bonds herein authorized to be issued shall be used for the following purposes:

(*a*) To retire applicant's outstanding issue of $824,500.00 of bonds at 105 per cent of face value	$884,625 00
(*b*) To reimburse applicant's treasury for capital expenditures made from income	25,375 00

4. The unamortized discount on applicant's bonds heretofore issued shall be charged to the surplus account as the bonds are retired, and the premium of 5 per cent herein authorized to be paid on applicant's outstanding issue of $824,500.00 of bonds shall be written off against applicant's surplus over a period of not to exceed the life of the bonds herein authorized to be issued.

5. Santa Barbara Gas and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued;

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and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

7. The authority herein granted shall apply to such bonds as shall have been issued on or before June 30, 1917.

Dated at San Francisco, California, this 2d day of June, 1916.

DECISION NO. 3397.

IN THE MATTER OF THE APPLICATION OF SANTA CATALINA ISLAND COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 2315.
Decided June 3, 1916.

Applicant, operating among other things a small public utility business, is authorized to issue $1,000,000.00 face value of bonds, $600,000.00 of which are to be used to refund a like amount of outstanding bonds, the balance to be sold at not less than 95, provided that should any part of the proceeds thereof be used in connection with applicant's public utility business, it shall report the facts thereof to the Commission.

S. M. Haskins, for Applicant.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

In this application Santa Catalina Island Company asks authority to issue $1,000,000.00 face value of first mortgage 6 per cent gold bonds at not less than 95 per cent of the face value thereof, plus accrued interest. The bonds mature June 1, 1926.

A copy of applicant's proposed deed of trust securing the payment of the bonds is attached to the application and marked Exhibit "A."

The evidence in support of the application shows that Santa Catalina Island Company owns all of Santa Catalina Island, Los Angeles County, except a few lots; that its property is appraised at more than $2,000,000.00; that it owns all of the capital stock of Wilmington Transportation Company, whose assets it values at more than $200,000.00; that it has $600,000.00 face value of bonds outstanding; that it will use $600,000.00 face value of the proposed bond issue to redeem or refund the outstanding bonds; and that it will use the remaining $400,000.00 face value of bonds to pay for improvements.

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Applicant owns a small water plant and a small electric plant at Avalon. The value of its public utility property is reported at approximately $40,000.00, or less than 2 per cent of the total appraised value of applicant's property.

On May 18, 1916, the Commissioner of Corporations of the State of California issued an order authorizing Santa Catalina Island Company to issue $1,000,000.00 face value of bonds referred to in this application. The decision authorizes applicant to use $600,000.00 of the bonds to pay or refund outstanding bonds, and to sell the remaining $400,000.00 at not less than 95 per cent of the face value thereof, plus accrued interest.

At present applicant does not contemplate the expenditure of any of the proceeds from the sale of the bonds for additions and betterments to its public utility property.

This Commission is not concerned in the expenditure of the proceeds from the sale of the bonds for other than public utility purposes. The order will, therefore, provide that if applicant should expend any of the proceeds from the sale of the bonds for public utility purposes, it shall report the same to this Commission.

I herewith submit the following form of order:

ORDER.

Santa Catalina Island Company having applied to the Commission for an order authorizing it to issue $1,000,000.00 face value of first mortgage 6 per cent gold bonds, and a public hearing having been held and it appearing that the purposes for which applicant herein proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Santa Catalina Island Company be given authority and it is hereby given authority to issue $1,000,000.00 face value of first mortgage 6 per cent gold bonds.

It is hereby further ordered that Santa Catalina Island Company be given authority and it is hereby given authority to execute a mortgage or deed of trust substantially in the same form and tenor as the mortgage or deed of trust attached to the application herein and marked Exhibit "A."

The authority herein given is given upon the following conditions and not otherwise:

(1) Applicant shall use $600,000.00 face value of bonds herein authorized to be issued to pay or refund outstanding bonds of a like amount.

(2) Applicant shall sell the remaining $400,000.00 face value of bonds herein authorized to be issued at not less than 95 per cent of the face value thereof, plus accrued interest.

(3) The approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only and an approval in so far as this

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Commission has jurisdiction under the terms of the Public Utilties Act, and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

(4) Santa Catalina Island Company shall keep separate, true and accurate account showing the receipt from the sale of the bonds herein authorized and the application of the proceeds therefrom in so far as the same may be expended for public utility purposes; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, the use and application of such moneys in so far as the same are expended for public utility purposes, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(5) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed in the Public Utilities Act as amended.

(6) The authority herein granted will apply only to such bonds as shall have been issued on or before December 31, 1918.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of June, 1916.

DECISION No. 3398.

IN THE MATTER OF THE APPLICATION OF VENTURA WHARF AND WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

Application No. 2259.

Decided June 5, 1916.

Applicant authorized to issue 600 shares of its capital stock of the par value of $100.00 per share, to be sold at not less than par; $40,000.00 of the proceeds to be used to purchase certain wharf and warehouse property, the balance for repairing and lengthening the wharf; provided, that after the acquisition of such property, repairs shall be made so as to render such wharf absolutely safe before any expenditures shall be made for any other purpose.

Argabrite & Drapeau, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Ventura Wharf and Warehouse Company, a corporation organized under the laws of the State of California for

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the purpose, among others, of conducting a general wharf and warehouse business, for authority to issue at par its entire $60,000.00 of capital stock.

A public hearing was held in Ventura May 26, 1916. From the evidence it appears that applicant holds an option, extending to July 29, 1916, on all the property of the San Buenaventura Wharf Company at a total purchase price of $40,000.00, upon which applicant has made a part payment of $5,000.00. The property covered by the option above referred to is set forth in a list annexed thereto and includes the wharf, which is 1,173 feet long, varying in width from 40 to 60 feet, 3 warehouses, a freight house, a bean cleaner, office fixtures, scales, trucks, wagons, a pile driver and engine, small flat cars and other wharf and warehouse equipment.

A careful examination of the wharf and warehouses was made by L. R. Kessing, one of the Commission's assistant engineers. He found the last 310 feet of the wharf to be in good condition, but the rest of the wharf and all but one of the warehouses to be very seriously depreciated. The 260 feet of wharf nearest the shore is in a dilapidated condition, many of the piles, caps and stringers having suffered from dry rot to such an extent that they are now little more than shells. Moreover, this portion of the wharf is a menace to any one using it and should be repaired immediately. Evidently for years no proper maintenance has been practiced on the wharf or the warehouses, the only building in good condition being the warehouse known as Number 3, which is covered with corrugated iron, has a concrete floor and was built nineteen years ago, whereas all the others are at least thirty years old.

Mr. Kessing also submitted an estimate of the reproduction cost and the reproduction cost less depreciation of the property to be purchased as follows:

	Reproduction cost	Reproduction cost, less depreciation
Real estate	$3,500 00	$3,500 00
Wharf and buildings	53,685 27	18,486 97
Machinery, tools and supplies	14,689 83	10,053 12
Contingencies, superintendence, etc., on wharf and buildings (5 per cent)	2,684 26	924 35
Inventory omissions on machinery, tools and supplies (1 per cent)	146 90	100 53
Property of R. C. Sudden, which will be included as part of property of San Buenaventura Wharf Company	2,435 00	1,412 50
Totals	$77,141 26	$34,477 47

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While we believe that applicant is paying somewhat more than this property is strictly worth, we do not feel that under all the circum stances the price is unreasonable.

With the remaining $20,000.00 to be realized from the proposed stock issue applicant purposes to repair the rear portion of its wharf and to extend the structure from 500 to 600 feet farther seaward in order to reach water deep enough to enable vessels to use it. Applicant estimates that such an extension will give vessels using the wharf 15 feet of water at low tide.

The people of Ventura have been practically without any wharf facilities for the last two years, owing to the fact that the steamer "Coos Bay" was driven entirely through the wharf by a storm, and that soon after this damage was repaired a large amount of silt was carried in by storms, rendering the wharf useless. There is some question as to whether this trouble will not recur from time to time; but as the rehabilitation of the wharf and warehouse is more or less of a community enterprise, we feel that in spite of the risk it should be encouraged. Some 110 business men and farmers in Ventura and its surrounding country have subscribed for stock in the new corporation, and most of them expect to be patrons of applicant. There is no question but that both the city and the county of Ventura are greatly in need of shipping facilities at this point, the nearest wharf now being at Hueneme, some twelve or fifteen miles distant. Moreover, the county of Ventura has commenced the construction of a $1,000,000.00 system of concrete county highways, practically all of which will connect directly or indirectly with the city of Ventura, thus not only rendering a wharf more necessary to the people but increasing its prospective earning capacity.

ORDER.

Ventura Wharf and Warehouse Company, a corporation organized and existing under the laws of the State of California, having applied to this Commission for authority to issue its entire capital stock, consisting of 600 shares of the par value of $100.00 per share, and a public hearing having been held, and it appearing to this Commission that the purposes for which said stock is to be issued and the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Ventura Wharf and Warehouse Company be and the same is hereby authorized to issue 600 shares of its capital stock of the par value of $100.00 each.

The authority herein given is given subject to the following conditions and not otherwise, to wit:

1. Ventura Wharf and Warehouse Company shall issue said stock so as to net said company not less than the par value thereof.

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2. The proceeds of the issue of said stock shall be applied substantially as follows:

To the purchase of the property of San Buenaventura Wharf Company (including the property belonging to Mr. R. C. Sudden, referred to in the foregoing opinion), not more than	$40,000 00
To repairing and extending the wharf, approximately	20,000 00
Total	$60,000 00

3. Ventura Wharf and Warehouse Company shall reserve a sufficient portion of the proceeds of the stock issue herein authorized to pay for repairing the wharf in such a manner as to render it absolutely safe for all uses to which it will be subjected, and applicant shall not use any portion of the funds so appropriated for any other purpose until after said repairs have been completed.

4. The authority herein given to issue said stock shall apply to such stock as shall have been issued on or before September 1, 1916.

5. Neither the issue of this stock nor the action of this Commission in permitting its issue or the purchase of the property referred to in the foregoing opinion shall be binding upon this Commission or any other rate fixing body as establishing the value of said property for rate fixing purposes or otherwise.

6. Ventura Wharf and Warehouse Company shall keep a true and accurate record of the issue of said stock and shall on or before the twenty-fifth day of the month following said issue, make a verified report to this Commission setting forth the disposition of said stock, the conditions of such disposition, and for what purposes the same was issued, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

Dated at San Francisco, California, this 5th day of June, 1916.

DECISION No. 3399.

COUNTY OF CALAVERAS
vs.
SIERRA RAILWAY COMPANY OF CALIFORNIA.

Case No. 910.

Decided June 5, 1916.

Complainant petitions the Commission to direct defendant to construct a grade separation where the county road crosses its tracks. An investigation shows that the movement of trains over defendant's line consists of only two regular trains each day, with several extras per month operating at a very low speed. The road traffic is also very light, accordingly the expense necessitated by a separation of grades is unwarranted at the present time; however, the grades of

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approach being exceptionally steep, defendant directed to stand one-half of the estimated expense of $700.00 to be expended by the county in reducing the grades of approach to 4 per cent within fifty feet of the track and 12 per cent for next three hundred feet.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This complaint, which was filed with the Commission on January 26, 1916, and is the outgrowth of an informal complaint, alleges that the railroad line which the defendant company operates between Jamestown and Angels, crosses a county road at a point near the south boundary of section fourteen, in township two north of range thirteen east of Mount Diablo base and meridian, county of Calaveras, in such a manner as to make the crossing dangerous and inconvenient to travelers and to constitute a public nuisance. Complainant asks the Commission to order defendant to construct a grade separation here in lieu of this crossing.

The service of the Sierra Railway Company over this line consists of one regular train each way per day and two or three extra trains per month. The operation of trains is carried on at an exceedingly slow speed and over the crossing in question road traffic is not excessive. The grade of approach on the downhill side is about 19 per cent, and is steep enough on the uphill side so that vehicle traffic moves across it at very slow speed. It developed at the hearing that no accident has ever happened at this crossing.

To abolish the grade crossing and separate grades at this point it will be necessary to use grades of approach as steep as 10 per cent, and even with these approaches no favorable alignment can be secured, and the cost of the grade separation will amount to some $8,000.00. Several witnesses were of the opinion that if the present grade of approach of 19 per cent on the downhill side of the crossing were reduced to 12 per cent, this crossing would be satisfactory in its present location. My own judgment confirms this opinion. The present road on which this crossing is located is the main road between Angels and Jamestown and Sonora. It was built many years ago, is unimproved, and has many steep grades and sharp curves. The best subway which could be secured, as I have said, would have steep grades and poor alignment, and I am satisfied that it would not long serve its purpose. I am, therefore, unwilling to recommend an order requiring an expenditure of $8,000.00 for the construction of a subway.

It is the belief of the complainants that before the railroad was built the grade at the site of the crossing was no greater than that which exists at other places on this road, and that the railroad company should, therefore, bear the entire expense of making such changes in the grades of approach as are necessary. Defendant denies that it materially

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increased these grades when its line was built, and believes that the county should bear a portion of any expense to be incurred.

The railroad was built some fourteen years ago and it is impossible at this date to determine the condition of the road at that time. And it is not of great importance. Conditions have existed as they are today since the road was built, and now that they should be improved there seems to be no reason why both parties should not share in the expense.

It was estimated that a 12 per cent grade could be secured, toward Angels from the crossing, for some distance down the hill, at a cost of $700.00. A road on this grade would very much relieve the dangerous condition complained of, but it would still be necessary for vehicles to cross the tracks at slow speed and would not introduce a new element of danger on that account. I believe that this work should be done by the county and that the railroad company should pay to the county one-half of the estimated cost of this work, or $350.00, when it is completed. The crossing should remain in its present location and there should be at least 50 feet of a grade not exceeding 4 per cent on the downhill side of the grade and the next 300 feet should not exceed a grade of 12 per cent. Except for these I believe no further conditions should be imposed by the Commission.

I recommend the following form of order:

ORDER.

County of Calaveras having filed with the Commission a complaint against a crossing of the Sierra Railway Company of California with a county road, hereinbefore described, and a hearing having been held, and the Commission having found that the conditions complained of can and should be remedied in the manner outlined in the foregoing opinion; and the Commission further believing that the Sierra Railway Company of California should contribute a portion of the cost of the construction necessary, subject to certain conditions,

It is hereby ordered that when the County of Calaveras shall have improved this crossing in such a manner that the grades of approach on the side of the crossing toward Angels shall not exceed 4 per cent for the first fifty feet, and 12 per cent for the next three hundred feet, the Sierra Railway Company of California shall pay to the County of Calaveras the sum of $350.00 as its share of the expense of this construction.

It is hereby further ordered that the Commission reserves the right to make such further orders regarding the crossing involved in this complaint as may appear to it to be right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of June, 1916.

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DECISION No. 3400.

THE CITY OF SAN GABRIEL

vs.

LOS ANGELES GAS AND ELECTRIC CORPORATION.

Case No. 886.

Decided June 5, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainant in the proceeding entitled as above having made written request that this action be dismissed,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 5th day of June, 1916.

DECISION No. 3401.

IN THE MATTER OF THE APPLICATION OF BAKERSFIELD WATER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE FOR EIGHT THOUSAND DOLLARS.

Application No. 2272.

Decided June 5, 1916.

Applicant authorized to issue its note of the face value of $8,000.00, bearing interest at 8 per cent, such note to be issued for a period of two years, in renewal of a note of a like face value dated May 27, 1914.

E. L. Foster, for Applicant.

REPORT OF THE COMMISSION.

Under this application in its original form Bakersfield Water Company, a corporation engaged in the business of furnishing water to the inhabitants of that portion of the city of Bakersfield commonly known as East Bakersfield, applied to this Commission for authority to issue a promissory note to Williams Brothers for the purpose of refunding a note dated May 27, 1914, which applicant attempted to issue without obtaining the authority from this Commission, and which said Williams Brothers had in turn assigned to the First Bank of Kern.

A public hearing was held in Bakersfield on June 2, 1916. From the evidence it appears that applicant's articles of incorporation provide for a total capital stock of the par value of $100,000.00, of which a total of $60,000.00 par value is issued and outstanding. All of the outstanding stock is owned by the following five stockholders: J. R. Williams, Duval

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Williams, Fairfax Williams, Thomas C. Williams, hereinafter referred to as Williams Brothers, and A. Thorand.

It further appears that in 1912 and again in 1913 applicant had to raise a total of $8,000.00, of which sum $5,059.10 was applied upon the purchase price of cast iron pipe installed in applicant's plant, and the balance upon the settlement of a bill for electric energy. In order to procure this money for applicant the Williams Brothers in May, 1913, had the company issue to them its note for $8,000.00, and they in turn gave their personal note to the First Bank of Kern for a similar amount. The bank thereupon loaned the $8,000.00, which was duly credited to applicant's account. Applicant attempted to renew this note to Williams Brothers by issuing a new note for the same amount on May 27, 1914. While this renewal note is void, owing to the fact that applicant did not obtain the authority of this Commission to issue the same, there is no question in our minds but that applicant acted in good faith and that its officers failed to realize that they were violating the law in attempting to renew said note.

The Commission suggested at the hearing that it would be preferable to have applicant execute its new note directly to the First Bank of Kern and for the bank to protect itself by having the note endorsed by the Williams brothers. Mr. Arthur S. Crites, vice president and manager of the First Bank of Kern, stated that such a course would be acceptable to his bank, and, accordingly, Bakersfield Water Company asked leave and was granted permission to amend its application by requesting authority to issue its new note directly to the First Bank of Kern.

All the notes above referred to bear interest at the rate of 8 per cent per annum, and, according to the testimony of Mr. Crites, this is the prevailing interest in Bakersfield for loans of all kinds.

While, as above mentioned, only $5,059.10 of the proceeds of the original $8,000.00 note was used for capital expenditures, according to the testimony of applicant's president, Mr. J. R. Williams, it has during the year 1915 devoted from its earnings to the acquisition of property and to the construction, extension and improvement of its facilities and service the sum of $10,672.63.

ORDER.

Bakersfield Water Company having applied for an order authorizing the issue of its promissory notes to the First Bank of Kern for $8,000.00 for the purpose of refunding its note of like amount to "Williams Brothers," and it appearing that the purposes for which said note or the proceeds thereof were used were not in whole or in part reasonably chargeable to operating expenses or to income, excepting as to $2,940.90 thereof, which though applied to operating expenses represents less than the sum which has been expended by applicant for capital purposes,

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for which it is now entitled to reimbursement, and that the application should be granted,

It is hereby ordered that Bakersfield Water Company be and the same is hereby authorized to issue its promissory note to the First Bank of Kern for $8,000.00 for a term not exceeding two years from June 15, 1916, said note to bear interest at a rate not in excess of 8 per cent per annum.

The authority herein granted is granted subject to the following conditions and not otherwise:

1. Bakersfield Water Company shall issue said note so as to net not less than the face value thereof.

2. The note herein authorized shall be issued solely for the purpose of refunding applicant's note to Williams Brothers, bearing the date of May 27, 1914.

3. The note herein authorized shall not be issued until said alleged note of applicant's to Williams Brothers for $8,000.00, bearing the date of May 27, 1913, shall have been surrendered to applicant and shall have been canceled by it.

4. Bakersfield Water Company is hereby authorized during the period of eighteen (18) months from the date of this order to renew the note herein authorized upon the same terms and conditions, provided that the combined terms of the note hereby authorized and the note issued in renewal thereof shall not exceed two years from the date of this order.

5. Bakersfield Water Company shall keep a true and accurate record of the issue of the note herein authorized and shall, on or before the twenty-fifth day of the month following the issue of the same, make a verified report to this Commission, setting forth the fact and date of issue, the face value of said note, the rate of interest and the application of the proceeds, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

6. This order shall not become effective until the fee specified in section 57 of the Public Utilities Act has been paid.

Dated at San Francisco, California, this 5th day of June, 1916.

DECISION NO. 3402.

MARY E. PEDROTTI

vs.

SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY.

Case No. 944.

Decided June 5, 1916.

Complainant petitions the Commission to compel defendant to maintain a certain station known as Pedrotti, and to prevent the closing of a runway underneath its track.

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Held, That the station in question is unnecessary, patrons of the company being amply served by stations on either side. The underground runway being a private passage and its continuance being based on alleged contractural obligations, this Commission has no jurisdiction thereover; complaint dismissed.

Frank M. Silva, for Complainant.

John T. York, for Defendant.

REPORT OF THE COMMISSION.

This is a case brought by Mrs. Mary E. Pedrotti against San Francisco, Napa and Calistoga Railway, a corporation, for the purposes of preventing said company from abandoning a station adjoining complainant's land and from closing a runway underneath its tracks connecting two portions of complainant's ranch.

A public hearing was held in Napa on May 19, 1916. From the evidence it appears that the defendant, a common carrier of freight and passengers, and its predecessors in interest, have for more than ten years last past maintained upon their right of way running from the city of Napa to the city of Vallejo a flag station, commonly known as Pedrotti, for taking on and discharging passengers, said station being about three and one-half miles from the city of Napa. The right of way at this point runs through complainant's land which formerly belonged to one V. Hathaway.

The complainant alleges that defendant's predecessor in interest, Vallejo, Benicia and Napa Valley Railroad Company, obtained a deed to said right of way from said Hathaway, part of the consideration for which was an agreement by the railroad company that it and its successors and assigns would forever maintain a station, on that portion of the right of way included in deed, for the taking on and discharging of passengers, and would also establish and maintain a runway under its right of way so as to connect the two portions of the Hathaway ranch; that in pursuance of said agreement said defendant's predecessors in interest did establish and maintain the above mentioned station and the said runway, and that the same have been and still are maintained by defendant. The complaint further alleges that defendant now intends to abandon said station and said runway; that said station is necessary to the patrons of said defendant living at or in the vicinity of said station, and that said runway is necessary for the use of complainant and her tenants in obtaining ingress and egress to and from her property through said right of way.

Complainant introduced considerable testimony in substantiation of her claim that the Vallejo, Benicia and Napa Valley Railroad Company had obtained its deed to the right of way through Hathaway's property by the promise of Captain John Cross, then president of the railroad company, to install and maintain the necessary cattle guards, gates, road crossings, the aforementioned subway or runway, to give to said

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Hathaway an annual pass for life and to install a station at the Hathaway ranch. Apparently, both Hathaway and the company's president felt that the stopping of the trains at the Hathaway ranch was part of the consideration for the deed of the right of way; but, on the other hand, none of complainant's witnesses had any knowledge or even any clear idea as to whether the conversations which they had heard referred to an agreement which was later to be reduced to writing, or to a written agreement, or merely to an oral agreement, nor were they able to state the terms of the agreement with sufficient definiteness to enable this Commission to determine whether a stopping place at the Hathaway ranch was a covenant which would run with the land, or whether it was simply a personal agreement with V. Hathaway which would terminate at his death just as did the obligation to give him an annual pass. We doubt if any agreement as to the installation of the station was ever reduced to writing; for, according to the testimony, neither complainant, her witnesses, nor any of the witnesses or officers of the defendant had ever seen or heard of any written agreement. The deed to the right of way, in addition to mentioning a consideration of $1.00, contains the following clause:

> "As further consideration for this conveyance, said party of the second part (the railroad company) agrees to fence said strip of land in a good and sufficient manner and to put in all necessary cattle guards, gates, road crossings, culverts, and subways."

No reference is made to any other consideration.

As to the need of this station, commonly known as Pedrotti, the evidence clearly shows that the public, including the complainant, would be adequately served by the stations on either side. The station now maintained and which will be continued at the point commonly known as Lone Tree is approximately half a mile north, while the station known as Soscol is the same distance south of Pedrotti. Moreover, the main highway between Napa and Vallejo as well as between Napa and Suisun, runs directly in front of, and parallel to, defendant's railroad, past Lone Tree, Pedrotti and Soscol and within a few feet of complainant's house, so that complainant at all times will have easy access to either of the other stations above named.

The evidence further shows that the only people living in the vicinity of Pedrotti and practically the only people using the same are complainant, the members of her immediately family, and their guests, and that no one else now lives or has for a number of years past lived within half a mile in either direction of said station. Even complainant's tenants can, according to the testimony, use the Soscol station more advantageously than that of Pedrotti.

The evidence further shows that 300 feet south of Pedrotti there commences a 2 per cent grade, which runs for a distance of 300 feet and

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then increases to a 3.44 per cent grade for a distance of 1,700 feet; that if defendant's southbound trains stop at Pedrotti it is often difficult for them in the short distance of 300 feet to attain sufficient headway to surmount the grade, and in every case the car or train consumes a great deal more power if it stops at Pedrotti than if it does not. Moreover, according to defendant's testimony, on account of this grade, if a southbound train stops at Pedrotti it requires over two minutes longer to run to the top of the grade than would be required if it did not stop. According to defendant's testimony its predecessor, the Vallejo, Benicia and Napa Valley Railroad Company, a short time after the construction of its road from Vallejo to Napa, sold out its property to the San Francisco, Vallejo and Napa Valley Railroad Company, a new corporation, which had constructed a road from Napa to the town of St. Helena. Subsequently, the San Francisco, Vallejo and Napa Valley Railroad Company defaulted in the payment of interest upon its bonds and the property was put up for sale in accordance with the terms and conditions of the deed of trust, and purchased by a committee of the bond holders. The defendant company was then formed and purchased the property from the reorganization committee. Defendant's officers testified that they had never heard of any agreement, either oral or written, to maintain a station at Pedrotti, having been made by any of defendant's predecessors in interest, and that they never knew defendant claimed any such right until a short time before the commencement of this action. They further testified that they are endeavoring to eliminate as many unnecessary stations as possible, and that this is merely one of six stations which they desire to eliminate at this time.

After carefully considering all the evidence, including the operating difficulties at this point, we are of the opinion that public convenience and necessary do not require the continued maintenance of the station at Pedrotti.

As to complainant's request for an order preventing defendant from closing the subway or runway above referred to, we are of the opinion that this is a matter over which this Commission has no jurisdiction, the subway being a private one and complainant's claim to its continuance being based purely on an alleged contractural obligation.

ORDER.

Mary E. Pedrotti having filed a complaint with the Railroad Commission against San Francisco, Napa and Calistoga Railway, a corporation, asking this Commission to order defendant to continue stopping its trains at the station known as Pedrotti, and to refrain from closing that certain subway or runway referred to in the opinion which precedes this order, a public hearing having been held at which both oral and written evidence was introduced, and the Commission finding for the

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reasons set forth in the foregoing opinion that the relief prayed for should be denied,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 5th day of June, 1916.

DECISION No. 3403.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF TEHAMA COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT A ROAD IN ROAD DISTRICT No. 4, OF TEHAMA COUNTY, AT GRADE OVER THE TRACKS OF SOUTHERN PACIFIC COMPANY.

Application No. 2263.

Decided June 5, 1916.

Applicant granted permission to construct a crossing at grade across the tracks of Southern Pacific Company, provided it shall bear all expense in connection therewith and shall remove certain obstructions so as to give a clear view of the track.

W. H. Samson, for Applicant.

C. J. McDonald, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was made, and the hearing was subsequently held under section 2694 of the Political Code, as amended January 2, 1912, which requires that after viewers have been appointed to view a crossing which a county proposes to open, a certified copy of the petition requesting the opening of such crossing, and of the order appointing viewers, be submitted to the Commission, and a hearing thereafter held, at which hearing the Commission shall hear the evidence and "determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation and maintenance, use and protection of said crossing."

The crossing sought in this application is on a road in township 24 north, range 3 west, Mount Diablo base and meridian; is about two miles north of Kirkwood, three miles south of Corning, and is known as Flournoy avenue. There is a well-graded county road located east of the track of Southern Pacific Company, and at this point it is parallel and adjacent to the railroad's right of way. There is also a north and south road one-quarter of a mile west of the railroad which parallels

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the track north of the proposed crossing, and the state highway runs north and south one mile west of the crossing. There are no public crossings between Kirkwood and a point three and one-half miles north, and those desiring to go from one side of the railroad to the other frequently have to drive several miles farther than necessary on that account. It is to secure relief from this situation that this application for a grade crossing has been brought before this Commission.

At the hearing it was made clear that the only practical way in which this detour or the use of private crossings could be avoided was to grant a grade crossing near the point mentioned in the application. It is necessary in a number of cases for school children living on the west side to cross the track in order to attend the Maywood School, which is located about one mile north and one-half mile east of the proposed crossing. This crossing will not entirely relieve this situation, and a readjustment of the school district lines seems to be the only feasible solution to this situation. Four members of the board of supervisors and a number of the residents of the district near the proposed crossing were present, and practically all were in favor of its construction at this point, and I believe it is reasonable that the crossing should be permitted.

The crossing is located on a one degree curve and in a slight cut, the waste banks of which are from two to three feet in height and will obstruct the view of approaching trains to some extent. This waste material can be removed at slight expense and trains will then be in view of those crossing the track for over one-half mile in each direction. This view of the track will be unbroken when within 100 feet of the crossing, and I do not believe it is necessary to place a warning signal at this point at the present time.

It is the policy of the Commission to keep the number of grade crossings in the State, as far as it consistently can, from being increased, and to open only those that are really necessary to serve the public convenience. In investigating this crossing those adjacent were considered, and it was found that the private crossing known as the "Davis" crossing, and located one mile south of the one to be opened, has been used more or less as a public crossing for a number of years by residents in this locality. Mr. Davis stated as a witness that he would have but little use for this crossing if the one applied for was constructed, and would not object to its being closed. This would cause the few that would continue to use it to go to the crossing applied for herein and would afford them better protection.

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I recommend the following form of order:

ORDER.

Board of supervisors of Tehama County, California, having applied to the Commission for permission to construct a public road at grade across the tracks of Southern Pacific Company, in Road District No. 4, Tehama County, California, and a public hearing having been held, and it appearing that this application should be granted subject to certain conditions,

It is hereby ordered that permission be and is hereby granted board of supervisors of Tehama County to construct a public road at grade across the tracks of Southern Pacific Company at the point and in the manner more particularly described in the foregoing opinion and subject to the following conditions and not otherwise, viz:

(1) The entire expense of constructing the crossing shall be borne by applicant.

(2) The expense of maintaining said crossing to a point within two (2) feet of the rails of Southern Pacific Company shall be borne by applicant. The expense of maintaining the crossing between the rails of Southern Pacific Company and to a point two (2) feet outside thereof shall be borne by Southern Pacific Company.

(3) Said crossing shall be constructed of a width not less than twenty (20) feet, with grades of approach not exceeding four (4) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) Applicant shall, at its own expense, remove the excavated material from the edge of the cut in such a manner as to give an unobstructed view of approaching trains.

(5) The private crossing located one mile south of this crossing and known as the "Davis" crossing shall be closed for public use.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 5th day of June, 1916.

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Decisions Nos. 3404 and 3405, grade crossings; not printed. See end of volume.

DECISION No. 3406.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF EIGHTEEN THOUSAND DOLLARS FACE VALUE OF FIRST MORTGAGE SIX PER CENT BONDS, AND AUTHORIZING THE DELIVERY OF TWELVE THOUSAND DOLLARS FACE VALUE THEREOF TO LOS ANGELES TRUST AND SAVINGS BANK, TRUSTEE, TO MEET THE SINKING FUND OBLIGATIONS OF APPLICANT, AND AN ORDER AUTHORIZING THE ISSUANCE OF FIFTY THOUSAND DOLLARS PAR VALUE OF PREFERRED STOCK AND FORTY-ONE THOUSAND ONE HUNDRED DOLLARS PAR VALUE OF COMMON STOCK.

Application No. 2121.

Decided June 9, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Applicant in the proceeding entitled as above having, on June 5, 1916, made written request that Application No. 2121 be dismissed,

It is hereby ordered that the same be and it is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 9th day of June, 1916.

DECISION No. 3407.

ROSENBERG BROS. & COMPANY, GRIFFIN & SKELLEY COMPANY, THE J. K. ARMSBY COMPANY, CASTLE BROS., AND PHŒNIX PACKING COMPANY.

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 913.

Decided June 9, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Bishop & Bahler, attorneys for complainants, having on June 1, 1916, made written request to this Commission that this proceeding be dismissed,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 9th day of June, 1916.

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DECISION NO. 3408.

IN THE MATTER OF THE APPLICATION OF MARTINEZ AND CONCORD INTERURBAN RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR AN ORDER AUTHORIZING THE ISSUE OF STOCKS AND BONDS.

Application No. 2125.

Decided June 9, 1916.

Applicant granted a certificate of public convenience and necessity authorizing the exercise of rights obtained under a franchise issued by the town of Martinez, permitting the construction of an electric railway along certain streets in said town, provided that applicant shall file a stipulation to the effect that it shall not claim a value for such franchise over and above the actual cost thereof.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

This Commission has heretofore on May 13, 1916 (Decision No. 3330), authorized Martinez and Concord Interurban Railway Company to issue 600 shares of its capital stock; $125,000.00 of first mortgage bonds and a like amount of "cumulative participating bonds." The proceeds from the sale of stocks and bonds are to be used for the construction of an electric railway line from the town of Martinez to a point known as Government Ranch, in Contra Costa County, a distance of six and one-half miles.

In the original application Martinez and Concord Interurban Railway Company asked for a certificate of public convenience and necessity for the exercise of certain rights conferred under a franchise granted by the Town of Martinez. The Commission stated that it would defer a judgment on this portion of the application until the franchise had been obtained.

A supplemental application is now presented in this matter in which the applicant asks for a certificate of public convenience and necessity for the exercise of rights and privileges conferred under a franchise granted to it by the Town of Martinez on June 5, 1916, for the operation of its line of electric railway. This franchise is for a term of fifty years, and provides for the construction and operation of an electric railway along the following route:

> "Commencing at or near the intersection of the center line of the Martinez and Pacheco highway (sometimes called Pacheco boulevard), with the corporation boundary line of said town; thence northwesterly along or near the center line of said Martinez and Pacheco highway to and within Jones street; thence southwesterly, along or near the center line of Jones street, to and within Pine street, to and within Escobar street; thence southwesterly, along

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or near the center line of Escobar street, to and within Smith street (sometimes called Alhambra avenue); thence southeasterly and southerly along or near the center line of said Smith street to the southerly corporation boundary line of said town. Also commencing at or near the intersection of the center line of Escobar street with the center line of Pine street; thence northwesterly along or near the center line of Pine street, and over private property to deep water in Suisun Bay; also commencing at or near the intersection of the center line of Shell avenue with the corporation boundary line of said town; thence northerly along or near the center line of Shell avenue to and within Fairview road; thence easterly along or near the center line of Fairview road to and within Laguna street; thence southeasterly along or near the center line of Laguna street to the end thereof."

This franchise calls for a different route from that proposed by Martinez and Concord Interurban Railway Company in its original application. It appears, however, that the cost of construction of the six and one-half miles of railway heretofore estimated at $159,499.00, will not be changed by the substitution of the new route within the limits of the town of Martinez. The comment regarding estimates of cost of construction, probable earnings, and similar matters, applies to the route now before us to the same degree as it did to the route under the franchise before us in the original decision. The franchise is in usual form providing that the fare within the town limits shall not exceed 5 cents and that the grantee after five years shall pay to the Town of Martinez 2 per cent of the gross annual receipts arising from the use of the franchise.

We believe that the certificate of public convenience and necessity should be issued authorizing the applicant to avail itself of the privileges conferred by the franchise. In the amended petition request was also made for certain readjustments in applicant's plan of financing. As certain other matters in connection with applicant's trust deeds and mortgages remain to be determined, we believe the whole question of its financing should be presented at one time. We will, therefore, pass upon these financial matters when applicant shall have submitted its trust agreement.

ORDER.

Martinez and Concord Interurban Railway Company having applied to this Commission for a certificate that public convenience and necessity require the exercise by it of rights and privileges conferred under a franchise for the operation of a street railway heretofore granted to it by the Town of Martinez (Ordinance No. 54, new series); and a hearing having been held, and this Commission being advised in the premises,

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The Railroad Commission of California hereby declares that public convenience and necessity require the exercise by Martinez and Concord Interurban Railway Company of the rights and privileges conferred by Ordinance No. 54, new series, of the Town of Martinez, adopted June 5, 1916, provided that Martinez and Concord Interurban Railway Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that Martinez and Concord Interurban Railway Company, its successors and assigns, will never claim before the Railroad Commission, or any court or other public body, a value for said rights and privileges in excess of the actual cost to Martinez and Concord Interurban Railway Company of acquiring said rights and privileges, which cost is represented by Martinez and Concord Interurban Railway Company to have been $50.00, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission.

Dated at San Francisco, California, this 9th day of June, 1916.

DECISION NO. 3409.

ARTHUR B. MILLER

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 954.

Decided June 9, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The complainant in the above entitled proceeding having made written request that his complaint be dismissed,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 9th day of June, 1916.

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DECISION NO. 3410.

BARCLAY McCOWAN ET AL.

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 670.

Decided June 9, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The complainants in the above entitled proceeding having formally requested permission to withdraw this complaint,

It is hereby ordered that the complaint herein be and it is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 9th day of June, 1916.

DECISION NO. 3411.

IN THE MATTER OF THE APPLICATION OF SANTA MARIA GAS AND POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 2323.

Decided June 9, 1916.

Applicant authorized to issue $40,000.00 face value of its 20-year 6 per cent bonds, to be sold at not less than par, proceeds to be applied on the cost of constructing its distributing system in the city of San Luis Obispo.

Geo. H. Whipple, of *Chickering & Gregory,* for Applicant.

REPORT OF THE COMMISSION.

This is an application by Santa Maria Gas and Power Company, a corporation engaged in the business of furnishing natural gas in certain portions of Santa Barbara and San Luis Obispo counties, for an order authorizing the issue of $40,000.00 face value of its 6 per cent gold bonds at par.

Under an application to this Commission, designated as No. 1485, which was consolidated with Case No. 747, Santa Maria Gas and Power Company was on April 4, 1916, by Decision No. 3230, granted a certificate of public convenience and necessity authorizing the exercise by applicant of rights and privileges granted to it under the franchise which it had secured from the City of San Luis Obispo. The company now desires to avail itself of the authority given it under said decision and in order to finance the installation of its distributing system in the city of San Luis Obispo it has filed this application.

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At the public hearing which was held in San Francisco June 5, 1916, applicant submitted the following balance sheet as of May 15, 1916:

Assets.

Capital assets:		
Intangible capital:		
Rights of way, franchises and leases		$32,530 59
Tangible capital:		
Real estate	$18,320 00	
Buildings and improvements (exclusive of real estate)	10,354 76	
Plant machinery and equipment	42,649 26	
Oil field collection system	10,434 77	
Transmission mains and distribution systems	186,724 01	
Meters	9,960 44	
Regulators and drips	2,476 08	
Services	15,725 01	
Tools	538 70	
Office furniture and fixtures	1,169 17	
Transportation equipment	2,190 27	
		$300,542 47
		$333,073 06
Sinking fund cash		17 25
Current assets:		
Material and supplies on hand	$8,499 95	
Accounts and notes receivable $3,130 12		
***Less:* Reserve for doubtful accounts** 500 00		
	2,630 12	
Cash	0 06	
		11,130 13
Deferred charges:		
Unexpired insurance	$138 90	
Suspense account	10,501 18	
		10,640 08
		$354,860 52

Liabilities.

Capital stock:		
Authorized 2,500 shares of $100.00 each		$250,000 00
Subscribed and fully paid 1,000 shares of $100.00 each		$100,000 00
Funded debt:		
Authorized, 500 six per cent sinking fund gold bonds of $500.00 each	$250,000 00	
Certified and delivered by trustees	$105,000 00	
***Less:* Bonds cancelled** $4,000 00		
In treasury 4,000 00		
	8,000 00	
		97,000 00
Current liabilities:		
Bills payable	$2,500 00	
Accounts payable	316 11	
Meter deposits	300 50	
Accrued bond interest	485 00	
		3,601 61

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Reserve for depreciation	29,972 48
Capital surplus	83,433 86
Revenue surplus	34,611 86
Revenue surplus:	
Balance May 15, 1916	6,240 71
	$354,860 52

Applicant's deed of trust or mortgage securing its bond issue provides for a total bonded indebtedness of $250,000.00 evidenced by 500 bonds of the face value of $500.00 each, of which $101,000.00 face value have been issued. Of these, $4,000.00 face value have been retired from the proceeds of the sinking fund provided by said deed of trust or mortgage, leaving $97,000.00 face value of bonds at present outstanding.

Applicant submitted the following estimate of the cost of its distribution system in the city of San Luis Obispo as follows:

Distribution mains	$14,500 00
Laying, dipping and hauling	8,500 00
Fittings	1,000 00
Regulator	500 00
Buildings and real estate	1,000 00
Relaying pavements and incidentals	5,000 00
Services—1,000 at $10.00 each	10,000 00
Meters—1,000 at $8.00 each	8,000 00
Total	$48,500 00

This estimate is approximately $6,500.00 more than the estimate made by the company in connection with Application No. 1485, *supra,* owing to the fact that a section of larger pipe and other items have been added to the original estimate. Applicant proposes to provide from its income the additional $8,500.00 over and above the $40,000.00 to be realized from the sale of its bonds.

The application is, in our opinion, a reasonable one and should be granted.

ORDER.

Santa Maria Gas and Power Company having applied to this Commission for authority to issue and sell $40,000.00 face value of its bonds at par, and a public hearing having been held upon said application, and the Railroad Commission finding that the purposes for which said bonds or the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted,

It is hereby ordered that Santa Maria Gas and Power Company be and the same is hereby authorized to issue and sell $40,000.00 face value of its 6 per cent 20-year bonds bearing interest at the rate of 6 per cent per annum and maturing April 15, 1927.

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The authority herein granted to applicant is granted upon the following conditions and not otherwise:

1. Santa Maria Gas and Power Company shall issue said bonds so as to net said company not less than the face value thereof and accrued interest thereon.

2. The proceeds of the bonds herein authorized shall be applied on account of the estimated cost of $48,500.00 of applicant's distribution system in the city of San Luis Obispo, referred to in the foregoing opinion, or for the payment or liquidation of temporary notes given in payment or part payment of the purchase or installation of said equipment.

3. The authority herein granted shall apply to such bonds as shall be issued on or before May 31, 1917.

4. Santa Maria Gas and Power Company shall keep a true and accurate record of the issue of the bonds herein authorized, and shall on or before the twenty-fifth day of the month following the issue of any of said bonds, make a verified report to this Commission setting forth the fact and date of issue, the face value of the bonds so issued, the net amounts received therefor, and the disposition of the proceeds thereof, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

5. This order shall not become effective until the fee specified in section 57 of the Public Utilities Act has been paid.

Dated at San Francisco, California, this 9th day of June, 1916.

DECISION NO. 3412.

T. Z. BLAKEMAN

vs.

CALIFORNIA TELEPHONE AND LIGHT COMPANY.

Case No. 947.

Decided June 9, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Stipulation having been filed by and between the parties to the above-entitled matter that all matters in controversy therein between said parties have been adjusted and that the Railroad Commission may make and file its order dismissing the complaint,

It is hereby ordered that Case No. 947 be and the same is hereby dismissed, without prejudice.

Dated at San Francisco, California, this 9th day of June, 1916.

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DECISION No. 3413.

CITY OF PITTSBURG

vs.

BLACK DIAMOND WATER COMPANY.

Case No. 870.

Decided June 9, 1916.

Defendant showing inability to meter its system at the present time, as required by the original order herein, the schedule of flat rates heretofore established is slightly increased pending the installation of meters, metering to proceed at the rate of ten installations per month.

B. D. Marx Green, for Complainant.

H. J. Brodsky, for Defendant.

REPORT OF THE COMMISSION.

SUPPLEMENTAL OPINION.

Subsequent to Decision No. 3257 of this Commission, establishing a schedule of rates modifying those previously in effect in the city of Pittsburg, request was made by the defendant, Black Diamond Water Company, for postponement of the date upon which such rates should become effective, and during the interval the attorneys representing complainant and defendant agreed at the office of this Commission that, pending complete metering of the system, the following modification of the flat rates established by that order should be made effective.

Defendant claimed inability to, at the present time, obtain and install sufficient meters to cover the entire system, but has admitted ability and intention to immediately proceed with the installation of meters on three complete blocks in the city of Pittsburg, to be designated by the Commission's hydraulic engineers, and to proceed generally with the installation of meters at the rate of ten meters per month. Pending such installation, admittedly, the flat rate schedule provided would not produce revenue equal to that previously obtained by the company or equal to that which the Commission believes the defendant company would realize provided the system were fully metered.

SUPPLEMENTAL ORDER.

It is hereby ordered by the Railroad Commission of the State of California that the Black Diamond Water Company establish and charge the following schedule of rates for water:

Municipal:

Fire service, $70.00 per month minimum for 35 hydrants.

Additional hydrants, $1.50 per month per hydrant.

Street sprinkling and sewer flushing, 12 cents per 100 cubic feet for all water used.

Municipal buildings and departments at commercial rates.

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Commercial:

Flat Rates.

Dwellings covering less than 500 square feet or occupied by four persons or less, containing one toilet	$1.25 per mo.
Dwellings covering more than 500 square feet when housing more than four persons, including one toilet	1.50 per mo.
Business places covering less than 800 square feet	1.00 per mo.
Business places covering over 800 square feet	1.50 per mo.
Warehouses	1.50 per mo.
Saloons and hotel barrooms	3.00 per mo.
Bakeries by monthly use of flour, for each 25 barrels or less	1.50 per mo.
Wagon and blacksmith shops	1.50 per mo.
Livery stables, including carriage washing	3.00 per mo.
Slaking lime, for each barrel	0.10
Slaking cement, for each barrel	0.10
Wetting brick, per thousand	0.10
Keeping horses or cows, in private stables or sheds, per single animal	0.15 per mo.
Each additional horse so kept	0.10 per mo.
Each additional cow	0.10 per mo.
Barber shops, for single chair	1.00 per mo.
For each additional chair	0.20 per mo.
Water trough on sidewalk	1.00 per mo.
Bathtubs in barber shops, hotels, boarding or lodging houses, accessible to the public, per tub	0.50 per mo.
Hotels, boarding and lodging houses containing ten rooms and over	3.00 per mo.
Irrigating gardens and grounds, for each 100 square feet	0.06 per mo.

Metered Rates.

$1.25 per month for 500 cubic feet or less.

Next 500 cubic feet at 20 cents per 100 cubic feet.

Use in excess of 1,000 cubic feet at 15 cents per 100 cubic feet.

Special contract rates for large consumers and industrial users, to be approved by the Railroad Commission. Meters to be installed at the expense of the company, at either the option of the company or upon request by the consumer.

This order shall become effective on July 1, 1916.

Dated at San Francisco, California, this 9th day of June, 1916.

DECISION NO. 3414.

A. H. GREENSHIELDS ET AL.

vs.

LOS ANGELES RAILWAY CORPORATION.

Case No. 920.

Decided June 9, 1916.

Complaint to compel a reduction in commutation rates, the issuance of transfers in connection therewith, and the operation of additional cars on what is known as the Vermont Heights and Homeward avenue lines of defendant.

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That the issuance of transfers in connection with commutation tickets is not warranted; that transfers in connection with commutation tickets are not issued on any of the other lines of defendant nor on any of the suburban lines operating within the State; that the revenues of defendant have been considerably curtailed by jitneybus competition, and the evidence herein does not warrant the Commission in further reducing the same.

Service: A check shows that only a very small percentage of defendant's cars along the lines in question were operated carrying passengers beyond the seating capacity of the cars; that the loading of cars beyond seating capacity during the congested hours of traffic does not warrant an order directing the operation of additional cars. Complaint dismissed.

Francis Fildew, for Complainants.

Samuel Haskings, for Los Angeles Railway Corporation, Defendant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner.*

The complainants in this proceeding are patrons of the Vermont Heights and the Homeward avenue lines of the defendant, Los Angeles Railway Corporation, and reside south of Manchester avenue, principally beyond the city limits of Los Angeles, within or on either side of what is commonly called the "Shoe String Strip," a narrow piece of land, included in the city limits extending to Port Los Angeles, a distance of about 24 miles.

It is alleged that the refusal of defendant to issue transfers for use on its connecting lines in the city of Los Angeles to such passengers as travel on commutation tickets is unfair, discriminatory, inequitable, inadequate and inefficient. Complainants also allege that a 20-minute car service is insufficient to meet the demands of the traveling public, and that same should be increased to a 10-minute schedule between the hours of 5 a.m. and 7:30 p.m., with a 20-minute service from 7:30 p.m. until the last car.

The distance from Fourth and Spring streets to Manchester avenue, via Hoover street, is 7.57 miles; from Sixth and Hill streets, via Georgia, to Manchester avenue, it is 8.43 miles; and from Fourth and Spring streets to Manchester avenue, via the Moneta avenue line, 6.72 miles; cash fare being 5 cents via any of the three routes. This 5-cent cash fare includes a transfer to any of the lines of defendant running in the same general direction.

South of Manchester avenue the Vermont Heights line extends for a distance of 2.51 miles to West Athens, and the Moneta avenue line 2.27 miles to Edna street. There is now in effect via these lines a 30-ride commutation fare of $1.50 between Los Angeles and Vermont Heights on the first named route and the same fare to Homeward avenue on the second named route. At the present time commuters are permitted to ride approximately 8.59 miles from Homeward avenue to Fourth and Spring streets, via Moneta avenue line; and from

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Vermont Heights 10.43 miles to Sixth and Hill streets, or 9.57 miles to Fourth and Spring streets on the commutation fare of 5 cents. It is the plea of the complainants that transfers be issued on these $1.50 commutation tickets to all points on connecting lines of defendant within the city of Los Angeles when the journey is made in the same general direction. If transfers were granted in connection with these fares the distance could in some cases be practically doubled, presuming passenger rode to the extreme limit of the connecting line.

Complainants introduced no exhibits or testimony to prove the fares discriminatory or unreasonable, but by witnesses endeavored to show that the territory on both the Vermont Heights and Homeward avenue lines, south of Manchester avenue, is not progressing to the same degree as the territory in other parts of the city where a 5-cent cash fare with transfer privilege is in effect. No evidence was submitted to show that transfers are given in connection with commutation tickets between other points on defendant's lines and a check of the tariffs on file with this Commission reveals the fact that transfers are not issued on commutation tickets in Los Angeles, neither are they given on any of the suburban lines within the State of California. The practice of selling commutation tickets at low rates, without transfer privilege, appears to be general, and there is nothing in this record showing same to be unreasonable.

The first cause of complaint is based to some extent on grounds similar to those involved in Case No. 337, *City of Inglewood* vs. *Los Angeles Railway Corporation,* Volume 3, Opinions and Orders of the Railroad Commission of California, page 32; No. 370, *P. A. Froelich* vs. *Los Angeles Railway Corporation,* Volume 3, Opinions and Orders of the Railroad Commission of California, page 30; and No. 509, *Lennox Improvement Association* vs. *Los Angeles Railway Corporation,* Volume 4, Opinions and Orders of the Railroad Commission of California, page 629. In all of these cases complainants alleged that the passenger fares were excessive and unreasonable. In the decision in each case the Commission's orders established 30-ride commutation tickets; in the first case, No. 337, the order put into effect a 30-ride commutation ticket at a rate of $1.50 without transfer privilege between Los Angeles and Inglewood; in the second proceeding, No. 370, the same order was issued requiring defendants to establish a 30-ride commutation ticket at rate of $1.50 without transfer privilege between Los Angeles and Vermont Heights; and in the last case, No. 509, the order required sale of a 30-ride commutation ticket for $2.25 without transfer privilege, between Los Angeles and Lennox.

It will thus be seen that the principle involved in this particular case has now been reviewed three times by this Commission within the past few years. In Case No. 370, P. A. Froelich, complainant, exactly the

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same rates and territory were investigated, and in the decision in that case, rendered July 2, 1913, the 30-ride commutation fare was reduced from $2.70 to $1.50. There has been no change in the situation since decision in Case No. 370 was rendered which would justify a further reduction in the commutation fares, and there is no convincing evidence that the fare of 5 cents per ride without transfer privileges between Vermont Heights-Homeward avenue and Los Angeles is either excessive, unreasonable or discriminatory.

A witness for defendant testified that automobiles, both in private use and jitney service, were making heavy inroads into its earnings and that a check of the traffic carried by jitney machines showed an average daily loss to defendant of approximately $1,735.00. In this connection an examination was made of the reports rendered to this Commission for the years 1912, 1913, 1914 and 1915, with the following results:

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Statement of Revenues, Expenses and Net Revenue of Los Angeles Railway Corporation, Years Ending June 30, 1912, 1913, 1914, and 1915.

	1912	1913	1914	1915
Passenger revenue	$6,094,165 43	$6,748,024 93	$6,913,494 70	$6,203,161 35
Baggage revenue				
Parlor, sleeping, dining and special car revenue	12,046 10	14,762 05	14,305 05	12,156 40
Mail revenue	2,557 22	4,910 81	3,876 45	3,918 64
Express revenue	2,400 21	3,687 44	4,087 50	3,895 31
Milk revenue				
Freight revenue				
Switching revenue				
Miscellaneous transportation revenue	4,392 46	11,910 41	7,470 00	1,710 48
Total revenue from transportation	$6,115,561 42	$6,783,295 64	$6,943,233 70	$6,224,842 18
Total revenue from other railway operations	89,775 30	38,460 75	47,562 29	98,243 82
Total operating revenues	$6,205,536 72	$6,821,756 39	$6,990,795 99	$6,323,086 00
Railway operating expense	4,228,340 33	4,870,605 80	4,821,272 00	4,374,189 85
Net operating revenue	$1,976,996 39	$1,951,150 59	$2,169,523 99	$1,948,896 15
Taxes	264,404 78	286,352 78	362,162 05	356,351 20
Operating income	$1,712,591 61	$1,664,797 81	$1,807,361 94	$1,592,544 95
Total nonoperating income	263 90	64,055 56	12,204 17	2,967 20
Gross income	$1,712,855 51	$1,728,853 37	$1,819,566 11	$1,595,512 15
Deductions from gross income—				
Rents	$70,657 49	$124,708 34	$166,135 79	$177,200 00
Taxes				7,866 80
Interest	1,066,753 27	1,067,107 31	1,071,288 55	1,089,936 27
Miscellaneous		365 16		
Total deductions from gross income	$1,137,410 76	$1,192,180 81	$1,237,424 34	$1,275,003 07
Net income or loss	$575,444 75	$536,672 56	$582,141 77	$320,509 08

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It is unnecessary to make any extensive analysis of the annual reports reproduced above, as the figures quoted are self-explanatory. However, I would call attention to the total revenue from transportation which shows an increase of $667,734.22 in 1913, an increase of only $159,938.06 in 1914, and a decrease of $718,391.52 in 1915. The effect of competition from the self-propelled vehicles is very apparent and it may fairly be assumed that had this competition been absent in 1915 the earnings would have been at least considerably greater. It is also to be noted that operating expenses in 1915 were reduced from $4,821,272.00 to $4,374,189.85, or $447,082.15. Without this reduction in expenses the defendant would have shown a net loss of $126,573.07 instead of an income of $320,509.08. After a careful consideration of all the evidence and reports I can find no justification for a change in the present commutation fare arrangements; the fares are not shown to be excessive, neither are they discriminatory, and certainly the present financial condition of this defendant does not warrant an order from this Commission further reducing its income. This part of the complaint should be dismissed and I so recommend.

As to the allegation of complainants that the service rendered is inadequate and insufficient and does not accommodate the existing transportation demands and requirements, the evidence of witnesses for the defendant in this case and the schedules filed as defendant's exhibits would indicate that northbound cars, which were checked at the intersection of Jefferson and Main streets, Los Angeles (the point at which the maximum load was present), for eight days between the hours of 7:20 and 7:40 a.m., carried loads on but 21 trips beyond the seating capacity of the cars, or an average of 2⅝ trips per day. Between the hours of 7:40 and 8:00 a.m., from a check of eight days an average of one trip per day carried passengers in excess of the seating capacity of cars. Southbound on a check made at Jefferson and Main streets, between the hours of 5:00 and 5:20 p.m., three trips out of a four-day check were loaded beyond seating capacity; between 5:20 and 5:40 p.m. six trips on a four-day check were overloaded; between the hours of 5:40 and 6:00 p.m. five trips in a four-day check were overloaded, and between the hours of 6:00 p.m. and 6:20 p.m. one trip in a four-day check was loaded beyond seating capacity.

The hours during which checks were made are those in which people are traveling to and from their work and the checks were made at the point where the maximum number of people were on the cars. Under these conditions the defendant, in common with all other transportation companies similarly situated and serving large centers of population, finds it extremely difficult to transport its patrons without some over-

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crowding of cars, and the situation presented in this case is no different from that existing in every large city in the country and is one that is very hard to overcome. The congested conditions in the business district of Los Angeles at present make it practically impossible to increase the service on any specific line during what are termed rush hours when the patrons of all transportation companies are desirous of being moved to their destination at one time, and the conditions as reflected by exhibits introduced in this case do not indicate that the overcrowding of cars during the extreme rush hours is of sufficient frequency to justify additional service desired by complainants.

Conditions existing during the portion of the day other than rush hours do not indicate that there is any overcrowding of cars nor that complainants are inconvenienced by not being able to obtain seats, and I am of the opinion that the facts in this case as regards service do not justify the change from the schedule based on a twenty-minute headway to that of a ten-minute headway as requested.

After careful consideration I conclude that this action should be dismissed.

I submit the following form of order:

ORDER.

Public hearing having been held in the above entitled case, and the same having been submitted and being now ready for decision,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of June, 1916.

DECISION No. 3415.

IN THE MATTER OF THE APPLICATION OF LONG BEACH CONSOLIDATED GAS COMPANY FOR AN ORDER AUTHORIZING IT TO SELL A CERTAIN GAS PLANT TO SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA.

Application No. 2198.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY FOR AN ORDER AUTHORIZING IT TO SELL A CERTAIN GAS PLANT TO SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA.

Application No. 2199.

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IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL STOCK AND BONDS AND TO PURCHASE GAS PROPERTIES.

Application No. 2271.

Decided June 9, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

This Commission having heretofore on May 22, 1916, authorized Southern Counties Gas Company of California to execute a mortgage of its properties to secure an authorized bond issue of $10,000,000.00, said mortgage and deed of trust to be in a form to be thereafter approved by this Commission; and

Southern Counties Gas Company of California having on May 31, 1916, filed with this Commission a form of mortgage and trust deed, marked "Exhibit Y," securing said bond issue, and this Commission having on June 1, 1916, issued an order approving the form of said mortgage and trust deed; and

Southern Counties Gas Company of California having on June 6, 1916, filed with this Commission an amended form of mortgage and trust deed, marked "Exhibit Y Amended,"

It is hereby ordered that the Commission hereby gives its approval to the form of said mortgage and trust deed, marked "Exhibit Y Amended."

Dated at San Francisco, California, this 9th day of June, 1916.

DECISION No. 3416.

IN THE MATTER OF THE APPLICATION OF THE CLEAR LAKE SUSPENDED MONORAIL COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCK AND BONDS, AND THE CLEAR LAKE RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE SALE OF ASSETS TO THE CLEAR LAKE SUSPENDED MONORAIL COMPANY.

Application No. 2219.

Decided June 10, 1916.

Applicant, contemplating the construction of a suspended monorail railroad from Hopland to Lakeport, applies for permission to issue $50,000.00 par value of stock and $900,000.00 face value of 40-year 6 per cent bonds; also to purchase certain properties of the Clear Lake Railroad Company.

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Applicant submits no details as to its proposed plan of financing or estimated costs of construction of its proposed line. Estimated costs of a standard gauge surface road would approximate $600,000.00, estimated costs of applicant's line double that amount, or $1,223,904.85. Applicant's estimate of probable revenues are based on rates far in excess of those received by any other carrier operating in California.

Held, The plans submitted by applicant are entirely too indefinite and incomplete to permit the Commission making an order based thereon, authorizing the issuance of securities. Application denied without prejudice.

The Commission announces its willingness to assist in experiments and developments of this nature, provided capital is found willing to assume the risks and liabilities incident thereto. However, when it appears that an undertaking will be started, large amounts of money invested and the enterprise subsequently abandoned or left incomplete, the Commission will be slow in authorizing an issuance of securities in connection therewith.

Chas. L. Brown, for the Clear Lake Suspended Monorail Company and Clear Lake Railroad Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner*.

This is a joint application by the Clear Lake Suspended Monorail Company, hereinafter referred to as the monorail company, and by the Clear Lake Railroad Company, hereinafter referred to as the railroad company, in which the monorail company asks the authority of the Commission to issue certain stocks and bonds and to buy certain assets of the railroad company; and in which the railroad company asks permission to sell its assets to the monorail company.

The monorail company proposes to construct and operate a line of railroad between Hopland, Mendocino County, and Lakeport, Lake County, via Kelseyville, Lake County, of an estimated length of 24 miles.

The monorail company was incorporated in California on March 23, 1916, to construct and operate, as a common carrier of passengers, express, freight, and mail, a suspended monorail railroad line between the points named. Its capital stock is $50,000.00, of which $26.400.00 has been subscribed for and 10 per cent paid into the treasury of the corporation. The remainder of the subscription is subject to call from time to time.

The monorail company asks the Commission for authority to issue its stock to its subscribers to the extent of its authorized capital stock; namely, the sum of $50,000.00, under conditions which will later be discussed more fully, and to issue its 40-year 6 per cent participating gold bonds in the sum of $900,000.00, the proceeds of the bond issue to be used for the purpose of constructing the road. A hearing in this application was held in Lakeport on May 11, 1916.

The project of a railroad from Hopland to Lakeport has heretofore been the subject of a decision by this Commission. In Application

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No. 651, the Clear Lake Railroad Company, one of the parties to the present application, asked for an order authorizing the issue of bonds of the face value of $500,000.00 and capital stock of the par value of $200,000.00. This matter was decided on October 29, 1913, Decision No. 1046 (Vol. 3, Opinions and Orders of the Railroad Commission of the State of California, p. 817). In that decision, and in a supplemental one of May 14, 1914 (Decision No. 1507, Vol. 4, Opinions and Orders of the Railroad Commission of the State of California, p. 989), the Commission authorized the railroad company to issue, for the purpose of constructing a surface standard gauge steam railroad, capital stock to the par value of $75,000.00, and $500,000.00 face value 6 per cent first mortgage bonds, under conditions as set forth in said Decision No. 1507, to which reference is hereby made. A considerable amount of grading on the proposed line was done prior to the application to the Railroad Commission. The railroad company, however, was unable to complete its financial arrangements for the sale of its securities, construction stopped, and no work has been done since the fall of 1914, with the result that now the railroad company is willing to abandon its project, sell its assets, and go out of existence.

Applicant, the monorail company, now proposes to give railroad facilities to Lake County by means of a new method of transportation not at this time in general use anywhere in this country. It is stated in the application that the monorail company will operate under a license issued by M. C. Miller to F. D. Flint, one of the directors and promoters of the monorail company, for "all of the rights and privileges in the use of his designs, details, specifications, trucks, etc., whether covered by patents, applications for patents, or patents hereafter to be granted." Under this license the monorail company proposes to build a type of bridge construction with wood, steel, or reinforced concrete towers set on concrete bases, where, suspended from a special I-beam rail fastened to a steel cross-arm, an electrically-driven suspended car will operate approximately 10 to 20 feet above the surface of the ground.

In exhibits introduced at the hearing, the proposed type of construction is described in full, and certain advantages are claimed over standard surface railroad construction.

The Miller license is made a part of the application. One of its provisions calls for a building royalty of $1,000.00 per lineal tower-mile to be paid to M. C. Miller or his assigns for each mile as it is constructed.

The right to operate under the license is made contingent upon the adoption of the system of financing devised by M. C. Miller.

This plan, according to the application, is of "a revolutionary character and designed to remove the stigma attached to railroad securities." In its essential parts, however, it is merely a plan for financing

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by an issue of participating bonds, stock to be issued only after all the bonds are retired. It is proposed to finance the entire construction by the issuance of 40-year 6 per cent semiannual participating bonds.

The plan then provides that after the road has been in operation for a year and every expense of every kind and nature shall have been paid, including taxes and interest, and provision shall have been made for sinking and emergency funds, then the portion of net earnings remaining shall be divided into four parts, namely:

(*a*) 20 per cent to the account of Lake County, in payment of franchises.
(*b*) 20 per cent to the bondholders over and above interest on the bonds.
(*c*) 20 per cent to the employees of the road over and above their regular wages.
(*d*) 40 per cent to the operating company over and above the regular salaries of the officials of the road.

The common stock of the monorail company of the authorized par value of $50,000.00 is to be divided into two parts, according to the plan presented.

1. $26,400.00 par value subscribed by the stockholders of the monorail company, this stock to be surrendered into the treasury of the corporation after it has been issued, and to be exchanged for first mortgage bonds, except that one share each shall be held for the purpose of qualifying directors.
2. The remaining $23,600.00 par value to be issued and placed with the trustee for the benefit of the stockholders of the Clear Lake Railroad Company, in consideration of the transfer of all of the latter corporation's rights of way, property and franchises.

Provision is made also for an option by which Lake County may at some future date acquire and operate the railroad properties.

With reference to estimated traffic, earnings and operating expenses, the monorail company refers to the former application of the Clear Lake Railroad Company (Application 651), to which I have heretofore called attention. The traffic estimates are based entirely on the data considered by the Commission in connection with that application. There is, however, submitted to the Commission a revised estimate of annual operating revenues and expenses, as follows:

Earnings.

50,000 tons freight in and out at $4.00	$200,000 00
35,000 passengers at $3.00 round trip	105,000 00
Mail and express, 13 cents per passenger mile	10,000 00
Total	$315,000 00

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Operating Expenses.

Interest on $900,000.00 bond issue at 6 per cent		$54,000 00	
Sinking fund, per annum		10,000 00	
Emergency fund, per annum		3,000 00	
Renewal, upkeep, betterments, repairs		20,000 00	
Taxes		2,000 00	
Insurance		1,000 00	
Power for 365,000 car miles (annual)		18,250 00	
Office expenses, printing		5,000 00	
Help, 1 track man	$1,825 00		
4 agents	7,300 00		
4 motormen	7,300 00		
4 conductors	7,300 00		
2 extra men	3,650 00		
5 officers, including auditor, secretary manager	15,000 00		
		42,375 00	
			155,625 00
Net			$159,375 00

It would appear that, in accordance with this estimate, the monorail company figures on a net revenue, after interest and sinking fund requirements, of approximately $160,000.00 per annum, on the basis of an operating ratio of about 50 per cent.

There was filed at the hearing, as an exhibit, a statement showing the assets of the Clear Lake Railroad Company. This statement shows that on March 31, 1916, a total of $85,954.93 had been spent for the construction of the standard gauge steam road proposed by the railroad company. According to the inventory made by the monorail company, items consisting of engineering, rights of way, fencing, and office equipment of a total value of $23,904.85 can be usefully employed in the construction of the monorail railroad. As to the principal items of expenditure by the railroad company, such as grading, bridging, etc., it is stated that the monorail company does not actually demand such work, and these items are therefore not included as assets in the inventory. It is also provided that the old company will clear up its outstanding indebtedness before the transfer of its assets shall occur.

Commissioner Thelen in his opinion in Decision No. 1046, heretofore referred to, went exhaustively into the history of the transportation situation in Lake County, and the Commission in that decision, in its analysis of existing and prospective traffic, both passenger and freight, came clearly to the conclusion that there is now a very considerable traffic in and out of Lake County and that a large increase may confidently be expected if one of the projected railway enterprises could be carried to a successful conclusion.

The proposed suspended monorail railroad intends to make use of principles and types of construction that are not now in existence for railroad purposes anywhere in the United States. This particular

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type of railroad construction has, however, been used in Germany for at least twenty years with a great degree of safety and apparently with considerable success from a transportation and business point of view. It is necessary to add that conditions on the monorail lines abroad, with reference to density of population, topography, traffic, and other important matters, are not analogous to this project.

The question of cost of construction was thoroughly gone into at the hearing. Originally the applicant figured on an estimated cost per mile of from $30,000.00 to $35,000.00, and the amount of bonds to be issued under the terms of the application evidently was determined upon that cost basis. The cost estimate first submitted by the applicant did not contain sufficient details to permit of even a superficial check, and the monorail company, upon the engineering department's request, submitted a more detailed estimate, which is now part of the record. This estimate follows, as far as possible, the classification of construction expenditures for electric railways and reaches a grand total, for the proposed 24 miles of road, of $1,223,904.00, or slightly in excess of $50,000.00 per mile. This estimate follows:

Engineering and superintendence	$50,000 00
Rails	320,310 00
Rail fastenings and joints	1,320 00
Frogs and switches	4,000 00
Steel for towers	537,900 00
Pile and frame trestles	1,304 00
Signal apparatus	2,500 00
Telephone and telegraph lines	1,296 00
Distribution system	45,878 00
Shops and car houses	1,450 00
Stations and waiting rooms	2,000 00
Passenger and combination cars	40,000 00
Freight, express and mail cars	23,100 00
Service equipment	2,000 00
Shop equipment	3,000 00
Substation buildings	400 00
Substation equipment	15,000 00
Interest during construction	15,000 00
Discount on bonds	120,000 00
Taxes	10,000 00
Miscellaneous	3,542 00
	$1,200,000 00
Add property to be purchased from Clear Lake Railroad Company	23,904 85
	$1,223,904 85

In the Commission's decisions Nos. 1046 and 1507, already referred to, the cost of a surface standard gauge steam railway of the same length, including equipment, was estimated variously from $470,000.00 to $680,000.00, depending upon adopted standards of construction. It is clear, therefore, that suspended monorail construction is considerably

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more expensive, mile for mile, than a standard gauge road could be built for in this territory; but it developed at the hearing that even the revised estimate of over $50,000.00 per mile is based on altogether insufficient data, and that no really reliable estimate can be made until definite location surveys have been completed, definite standards of construction fixed upon, specifications drawn up, and sufficient details compiled to permit of definite bids from responsible contractors. A superficial check by the Commission's engineering department of the estimates submitted by the company has led to the conclusion that it will not be possible to build this proposed type of road for less than $60,000.00 per mile.

If this is true, the amount of securities asked to be authorized will not realize sufficient funds to complete the road.

It does not seem necessary at this time to go further into the question of the cost of construction.

According to the estimate of traffic and earnings made by the monorail company and abstracted heretofore in this opinion, the company expects to operate at a ratio of about 50 per cent. When it is remembered that established steam and electric railroads in more thickly settled territory in a majority of cases can not operate at better than with a 70 per cent ratio, and some smaller roads with even a less favorable percentage, a close scrutiny of the figures submitted seems necessary. Assuming the figures of freight tonnage and the number of passenger to be reasonable, it appears that the freight rate is based on approximately 20 cents per ton mile and the passenger rate on approximately 10 cents per passenger mile. Applicant believes such rates reasonable by a comparison with the present team and automobile stage rates. I shall at this time only call attention to the fact that on no railroad, steam or electric, in this State, does the average freight or passenger rate approach the figures underlying this estimate. I desire also to call attention to the assumption made in the estimate that with these rates the monorail company will be able to eliminate all possible team or motor competition, an assumption not borne out by a study of conditions in other similar portions of the State. Any decrease of the assumed average rates or any decrease of the estimated traffic would, of course, reduce the total of expected earnings.

Coming to the estimated expenses, I am of the opinion that the total is greatly below the figure that will have to be expected. It will only be necessary to point out the principal items in which I believe the estimate is too low. Only $20,000.00 per annum is allowed for "renewals, upkeep, betterments and repairs." This figure, on the face of it, is unreasonably low, especially since it is to cover, as stated at the hearing, the item of depreciation. This item, with this particular type of construction, will be an exceedingly heavy one. It developed

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at the hearing, according to the testimony of the applicant's witnesses, that the estimated life of the entire overhead structure is assumed at only 40 years. Taxes in the estimate are shown at $2,000.00 per annum. The state tax alone on the estimated income will be in excess of $16,300.00. On the other hand, the estimate of annual car mileage of 365,000 is undoubtedly largely in excess of what should reasonably be expected, while the cost of electric power may be reasonable.

It is clear to me that the project can not under any circumstances hope to have net earnings approaching the figure shown in the application, and it is doubtful if operating expenses could be earned during the first few years, to say nothing of interest on bonds and sinking fund.

I am forced to the conclusion that all of the estimates submitted to the Commission, both those for cost of construction and those for revenue and expenses, are so haphazard and unsatisfactory that it is impossible to attach to them any considerable weight. It would appear to me that before the Commission can give serious consideration to any proposed plan of financing, these fundamental data must be worked up and submitted in such shape and in such detail as to admit of careful investigation.

The unsatisfactory and fragmentary nature of all underlying data became increasingly clear at the hearing. It developed, for instance, that the location of the proposed monorail line, as shown in the application, follows exactly the location adopted for the standard gauge steam railroad placed before the Commission in Application No. 651. This location is governed by a 4 per cent maximum grade line and requires a distance of 24 miles between Hopland and Lakeport, when the air-line distance between these two points is approximately 12 miles.

One of the principal advantages of the suspended monorail type of construction is supposed to be its ability to disregard grades which would be entirely excessive for surface railroad construction. Attention was called to this feature at the hearing, and the company's representative expressed his immediate willingness to change the line of location if such a change should, for any reason, prove desirable. I can only say that it must be obvious that any type of railroad construction should seek the shortest possible line between points to be reached, commensurate with governing grades. And it must be equally obvious that any change in line distance must of necessity change all construction estimates and, to an extent, equally the operating estimates.

Having these facts in mind, it is my opinion that the Commission can not at this time base an intelligent opinion on the location, construction and operating data submitted by the monorail company.

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I do not desire in this opinion to go at length into the Miller lease submitted with the application. Mr. M. C. Miller, the promoter of this project and the lessor in the proposed contract, was a witness at the hearing and testified that as a matter of fact he was not in possession of any exclusive rights, leases, or patents for the construction or operation of this system of railroads. He testified that, as far as he was aware, any one might undertake to promote and construct a suspended monorail railroad. The witness did not state that it was his intention to shortly make application for a patent for an improvement of the now existing type of suspended monorail truck.

Under these circumstances, the subject of the lease and of the special plan of financing provided for in the lease can not be of more than academic interest.

It is clear to me, however, even at this time, that the Commission should not approve the proposed plan of financing.

The plan in its essence contemplates that the capital shall be raised through an issue of bonds. The division of profits is important only in case there are profits to divide. The Miller plan consumes 7.44 per cent of the investment before profits can be reached.

Moreover, applicant has no contract for the sale of its bonds, and its intended plan of financing must remain a matter of conjecture until it presents tangible evidence that it can raise the amount of money required for the project.

Railroad transportation facilities are needed for the development of Lake County, and I would be willing to recommend the authorization of an issue of stock and bonds upon any reasonable railroad enterprise for this section of the State if it were properly conceived.

With reference to the particular plan placed before the Commission in this application, it appears to me that the construction of a suspended monorail line of the type proposed is feasible, although in this instance it would undoubtedly be more costly than the standard type of steam or electric railroad.

We have before us estimates that a standard type of steam railroad can be built from Hopland to Lakeport for approximately $600,000.00, while the estimate for the monorail construction is $1,223,000.00, or twice as much.

It is my opinion that this Commission should not stand in the way of experiments or development of the nature here proposed, provided that those who have the financial ability are willing to carry the project to completion and with full understanding to assume the risks and liability. I am of the opinion that this Commission should not

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authorize the sale of an issue of securities, if it appears probable that the undertaking will be started, large amounts of money expended and then the enterprise left uncompleted or abandoned. It is my belief that the people of Lake County, and in fact the people of the entire State, will be in accord with this view of the Commission, as no benefits can be gained by any one, save perhaps the promoters, by the starting and subsequent abandonment of new utility projects.

It is my recommendation, therefore, that the Commission do not authorize the issue and sale of any stock or bonds upon the fragmentary and incomplete presentation of the Clear Lake Suspended Monorail Company.

I believe that this application, on the evidence presented to this Commission, should be denied, without prejudice, however, to the right of the applicant to renew its petition when it shall have completed its engineering studies, estimates of cost, arranged for the sale of its stock and bonds and performed the other acts mentioned in this opinion as essential to an adequate presentation of this matter.

I submit the following form of order:

ORDER.

Clear Lake Suspended Monorail Company having applied to this Commission for authority to issue stock and bonds, and Clear Lake Railroad Company having applied to this Commission for an order authorizing the sale of its assets to Clear Lake Suspended Monorail Company, and a hearing having been held and this Commission being fully advised in the premises, for the reasons stated in the foregoing opinion,

It is hereby ordered that the same be and it is hereby denied, without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of June, 1916.

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Decision No. 3417, grade crossing; not printed. See end of volume.

DECISION NO. 3418.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF THREE SPUR TRACKS ACROSS JULIAN STREET; ONE ACROSS MARSHALL STREET AND ONE ACROSS NORTH FRONT STREET, IN THE CITY OF TURLOCK, COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

Application No. 2251.

Decided June 14, 1916.

REPORT OF THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

This is an application by Peoples State Bank and others for a rehearing on this Commission's Decision No. 3354, rendered on May 22, 1916, in the above entitled proceeding.

The petition is based principally on the claim that Southern Pacific Company has not secured from the city of Turlock a franchise or permit authorizing said company to construct its tracks across the streets referred to in the original petition herein and in this Commission's Decision No. 3354.

This contention is without merit as affecting the validity of this Commission's said Decision No. 3354. If Southern Pacific Company needs a franchise or permit from the city of Turlock and has not secured the same, the Southern Pacific Company must, of course, secure such franchise or permit before it can construct its tracks on or across the public streets. The power of the city of Turlock, however, to grant or refuse to grant franchises or permits is entirely separate and distinct from the power of the Railroad Commission to grant or refuse to grant its consent to railroad crossings of public streets at grade. Each public body acts within its own sphere. The Railroad Commission's action in its sphere does not in any way add to or subtract from the powers and duties of the city of Turlock in its sphere. The Railroad Commission need not defer action in its own sphere until the city of Turlock has acted, nor is the validity of the Railroad Commission's consent in any way affected by any possible failure to secure the necessary franchise or permit from the city of Turlock, if such franchise or permit has not been secured. If the consent of both public authorities is necessary, Southern Pacific Company must, of course, secure such consent from each public authority.

It is not intended herein to pass on the question whether Southern Pacific Company needs or has secured a franchise or permit from the

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city of Turlock, that being a question to be determined by another forum.

The petition for rehearing should be denied.

ORDER ON PETITION FOR REHEARING.

Peoples State Bank, and others, having filed a petition for rehearing herein on this Commission's Decision No. 3354, rendered on May 22, 1916, in the above entitled proceeding, and careful consideration having been given to said petition, and no good reason appearing why said petition should be granted,

It is hereby ordered that said petition for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this 14th day of June, 1916.

DECISION No. 3419.

IN THE MATTER OF THE APPLICATION OF MARTINEZ AND CONCORD INTERURBAN RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AND FOR AN ORDER AUTHORIZING AN ISSUE OF STOCKS AND BONDS.

Application No. 2125.

Decided June 14, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas this Commission in an order dated June 9, 1916, Decision No. 3408, declared that public convenience and necessity require the exercise by Martinez and Concord Interurban Railway Company of the rights and privileges conferred by Ordinance No. 54, new series, of the town of Martinez, adopted June 5, 1916, provided that Martinez and Concord Interurban Railway Company should first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that Martinez and Concord Interurban Railway Company, its successors and assigns, would never claim before the Railroad Commission or any court or other public body a value for said rights and privileges in excess of the actual cost to Martinez and Concord Interurban Railway Company of acquiring said rights and privileges, and should have received from the Railroad Commission a supplemental order approving the same; and

Whereas Martinez and Concord Interurban Railway Company has now filed with this Commission a stipulation as set forth above, and it

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appearing to this Commission that said stipulation is in form satisfactory to this Commission so far as may be necessary for the purpose of this proceeding,

The Railroad Commission hereby finds as a fact that Martinez and Concord Interurban Railway Company has complied with the conditions of the order in Decision No. 3408, dated June 9, 1916.

Dated at San Francisco, California, this 14th day of June, 1916.

DECISION No. 3420.

IN THE MATTER OF THE APPLICATION OF LOS GATOS TELEPHONE COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK.

Application No. 2300.

Decided June 14, 1916.

Applicant authorized to issue 150 shares of its capital stock of the par value of $10.00 per share, to be sold at not less than par, proceeds to be used for the purpose of retiring an outstanding promissory note of the face value of $1,500.00.

REPORT OF THE COMMISSION.

This is an application by Los Gatos Telephone Company, a corporation conducting a telephone exchange in Los Gatos, Santa Clara County, for authority to issue and sell 150 shares of capital stock of the par value of $10.00 per share for the purpose of refunding a promissory note for $1,500.00.

A public hearing was held in Los Gatos on June 9, 1916. From the evidence it appears that applicant has no bonded indebtedness, and no floating indebtedness excepting its current bills, amounting to not more than $350.00, and its one-year promissory note above referred to for $1,500.00, payable to the Bank of Los Gatos and maturing June 9, 1916.

It further appears that the proceeds of this note were applied entirely to paying for extensions and additions to applicant's lines and services.

The following is an abstract of the balance sheet submitted by applicant as of December 31, 1915:

Assets.

Fixed capital	$28,886 26
Cash and deposits	430 33
Due from subscribers and agents	310 04
Materials and supplies	1,791 19
Total assets	$31,417 82

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Liabilities.

Capital stock	$22,550 00
Bills payable	1,500 00
Accounts payable	198 71
Other current liabilities	56 71
Taxes accrued	360 12
Other accrued liabilities not due	24 47
Corporate surplus unappropriated	6,727 81
Total liabilities	$31,417 82

Applicant further submitted the following data as to its income and expenses for the last three calendar years:

	1913	*1914*	*1915*
Operating revenues	$11,794 20	$12,367 14	$13,111 06
Operating expenses	7,102 01	8,438 69	8,334 28
Net operating revenue	$4,692 19	$3,928 45	$4,776 78
Miscellaneous deductions	--------	540 20	669 16
Operating income	$4,692 19	$3,388 25	$4,107 62
Nonoperating income	59 72	--------	51 96
Gross income	$4,751 91	$3,388 25	$4,159 58
Deductions from gross income	1,661 28	77 50	771 52
Net income	$3,090 63	$2,610 75	$3,388 06
Dividend deductions	1,676 30	1,804 00	1,954 39
Miscellaneous deductions	--------	--------	45 00
Balance to surplus	$1,414 33	$806 75	$1,388 67

It further appears that during the first four months of 1916 applicant's gross income averaged approximately $100.00 per month more than during the same period in 1915.

Applicant asks for permission to sell this stock at not less than par, but according to the testimony of its officers, it will use its best efforts to sell the same at a premium. We feel that the application is a reasonable one and should be granted.

ORDER.

Los Gatos Telephone Company having applied to the Railroad Commission of the State of California for authority to sell $1,500.00 face value of its capital stock at not less than par, and a public hearing having been held upon said application, and the Commission finding that the purposes for which the proceeds of said stock are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted,

It is hereby ordered that Los Gatos Telephone Company be and the same is hereby authorized to issue and sell 150 shares of its capital stock, of the par value of $10.00 per share.

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The authority herein granted to applicant is granted subject to the following conditions and not otherwise:

1. Los Gatos Telephone Company shall sell said stock so as to net said company not less than par.

2. The proceeds of the issue of the stock herein authorized shall be applied upon the payment of applicant's note to the Bank of Los Gatos for $1,500.00, bearing the date of June 9, 1915; the surplus, if any, after refunding said note, to be paid into applicant's treasury and not to be expended except for improvements, additions or betterments to applicant's service.

3. The authority herein granted shall apply to such stock as shall be issued on or before May 31, 1917.

4. Los Gatos Telephone Company shall keep a true and accurate record of the issue of the stock herein authorized and shall on or before the twenty-fifth day of the month following the issue of any of said stock, make a verified report to this Commission, setting forth the fact and date of issue, the face value of the stock so issued, the net amounts received therefor, and the disposition of the proceeds thereof, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this 14th day of June, 1916.

DECISION No. 3421.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO CONSTRUCT, MAINTAIN AND OPERATE AT GRADE RAILROAD CROSSINGS IN THE CITY OF SAN JOSE AND THE COUNTY OF SANTA CLARA.

Application No. 1966.

Decided June 14, 1916.

The Commission heretofore authorized the construction of certain crossings, the order providing for a division of the expenses thereof.

Held, Section 43 (*b*) of the Public Utilities Act invests in this Commission the power to prescribe the terms and conditions under which a separation of grades shall be made with reference to both the carriers and the state, county or municipality interested.

Held, That the Commission in authorizing the construction of crossings need not condition such authorization upon the securing by applicant of a franchise permitting such construction, for, if such franchise is necessary, the utility will be obligated to secure the same irrespective of whether or not the Commission's order is so conditioned.

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REPORT OF THE COMMISSION.

OPINION ON APPLICATION FOR REHEARING.

On June 9, 1916, the city of San Jose filed an application for rehearing in this proceeding. In this application the city urges two points: First, that the Commission acted without and in excess of its jurisdiction in providing that as a condition to the authority granted Southern Pacific Company to construct its tracks across West Santa Clara street in said city the Commission provided that certain expenses should be borne by the city of San Jose; and, second, that the Commission acted without and in excess of its jurisdiction in not requiring as a condition to the authority granted Southern Pacific Company to cross certain specified streets in the city of San Jose, that the company should obtain from the city a franchise to cross such streets.

We believe that there is no merit in either of these contentions. With reference to the first contention, it should be noted that the order of the Commission authorizing the construction of the crossing at West Santa Clara street or The Alameda, and prescribing the terms upon which the separation of the grades shall be made and the proportions in which the expense of the separation of the grades shall be divided, is in strict compliance with the jurisdiction of the Railroad Commission with reference to such matters as defined in section 43 (*b*) of the Public Utilities Act, giving to the Commission power with reference to the separation of grades at crossings to prescribe "the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected, or between such corporations and the state, county, municipality or other public authority in interest."

With reference to the second contention, if, in order to obtain the right to cross the streets in question in the city of San Jose, the Southern Pacific Company must obtain a franchise from the municipality the order of the Commission does not assume to, and, of course can not, in any way, change that requirement. In other words, the order of the Commission does not assume to state all of the conditions which must be complied with in order that the company shall have the right to cross the streets in the city of San Jose. If a franchise is necessary—upon which question we do not here pass—such a franchise must be obtained; but there is no requirement in the Public Utilities Act that the Commission's order authorizing the construction of a crossing under section 43 (*b*) of the Public Utilities Act must require as a condition to the Commission's authority the obtaining of a proper franchise from the municipality. The latter question is one between the municipality and the company.

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ORDER DENYING APPLICATION FOR REHEARING.

City of San Jose having on June 9, 1916, filed with this Commission an application for rehearing in this proceeding, and the Commission being of the opinion that there is no merit in said application,

It is hereby ordered that said application for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this 14th day of June, 1916.

DECISION No. 3422.

IN THE MATTER OF THE APPLICATION OF SANTA CATALINA ISLAND COMPANY FOR AN ORDER AUTHORIZING THE SALE OF ITS PUBLIC UTILITY PROPERTIES AND BUSINESS TO WILMINGTON TRANSPORTATION COMPANY, AND OF THE WILMINGTON TRANSPORTATION COMPANY FOR AUTHORITY TO PURCHASE SAID PROPERTIES.

Application No. 2335.

Decided June 16, 1916.

Applicant, desiring to separate its public utility business from its private interests, applies for and is granted permission to transfer certain water and electrical properties to the Wilmington Transportation Company for a nominal consideration of $10.00.

Gibson, Dunn & Crutcher, for Applicants.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application of Santa Catalina Island Company for authority to transfer its public utility properties and business to Wilmington Transportation Company. These properties consist of a water and electric plant for the service of the town of Avalon.

It is the purpose of Santa Catalina Island Company to separate its public utility business from its other operations. It owns the stock of Wilmington Transportation Company, a public utility, and now desires to transfer to the Wilmington Transportation Company the aforesaid water and electric properties, for a nominal consideration, expressed in the deed of conveyance as $10.00.

The applicant estimates the value of its properties at $2,000,000 and cites the fact that the Commission has heretofore appraised the water and electric properties under consideration herein at $37,269.05.

A draft of conveyance has been submitted in connection with the application, and it provides that Wilmington Transportation Company shall assume and agree to discharge and perform all of the duties and obligations in respect to the maintenance, use and operation of

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said electric and water plants and systems, which Santa Catalina Island Company would have been obligated to discharge or perform if the conveyance had not been made.

It is desirable that this transfer be made, and I therefore submit the following form of order:

ORDER.

Santa Catalina Island Company having applied to this Commission for authority to transfer its water and electric properties to Wilmington Transportation Company, as set forth in the foregoing opinion, and a public hearing having been held, and it appearing that public convenience will be served by such transfer,

It is hereby ordered that Santa Catalina Island Company be and it is hereby granted authority to transfer to Wilmington Transportation Company its water and electric properties as described in Exhibit "B," filed in connection with the application herein, said property being described in Exhibit "A" attached to the order herein.

1. The authority herein given is given on condition that Wilmington Transportation Company shall assume and agree to discharge or perform all of the duties and obligations in respect to the maintenance, use and operation of said electric and water plants and systems which Santa Catalina Island Company would have been obligated to discharge or perform if this conveyance had not been made.

2. The order herein given shall apply to such transfer of properties as shall have been made on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of June, 1916.

EXHIBIT "A."

That certain real and personal property situated in the city of Avalon, county of Los Angeles, State of California (delineated upon a diagram attached to Exhibit "B" filed in connection with Application No. 2335), which said property is more particularly described as follows, to wit:

Parcel No. 1. All of lots 12 and 13, the southwesterly 5 feet of lot 11, and the southeasterly, being the rear, 60 feet of lots 14 and 15, all in block 4 of the town, now city, of Avalon, as per map recorded in Book 34, page 67 *et seq.*, Miscellaneous Records of said county;

Together with the electric power plant situated thereon, and the buildings, equipment, machinery, tools and appliances thereof.

Parcel No. 2. That certain portion of lot "A" of the Banning Tract, as per map of said tract recorded in Book 72, page 96, Miscellaneous Records of said county, bounded and described as follows: Beginning at the intersection of the easterly line of Avalon avenue with the southerly boundary of said lot "A"; thence

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northerly along said line of Avalon avenue 100 feet; thence easterly at right angles to said line of Avalon avenue, 100 feet; thence southerly parallel to said line of Avalon avenue to said southerly boundary of lot "A"; thence along said boundary of lot "A" to the point of beginning;

Together with the pumping plant situated thereon and the buildings, equipment, machinery, tools and appliances thereof.

Parcel No. 3. That certain portion of the unsubdivided area of the aforesaid town, now city, of Avalon, as shown on said map thereof, particularly bounded and described as follows: Beginning at a point distant south 9°10′ west 403 feet from the most westerly corner of lot "A" of the Banning Tract, as per map recorded in Book 72, page 96, Miscellaneous Records of Los Angeles County; thence north 70°19′ west 50 feet; thence south 19°41′ west 100 feet; thence south 70°19′ east 100 feet; thence north 19°41′ east 100 feet; thence north 70°19′ west 50 feet to the point of beginning;

Together with the pumping plant situated thereon, and the buildings, equipment, machinery, tools and appliances thereof.

Parcel No. 4. Lots 13 and 14, in block 5, in said town, now city, of Avalon;

Together with the water and oil tanks situated thereon, with their appurtenances.

Parcel No. 5. The southwesterly one-half of lot 13 in block 14, of said town, now city, of Avalon, and a strip of land 60 feet wide (being a portion of said unsubdivided area of said town, now city, of Avalon), bounded on the northeasterly side by the southwesterly line of said lot 13; on the southeasterly side by the northwesterly line of lots 17 and 16 in said block 14, and on the southwesterly side by a line parallel to said southwesterly line of said lot 13 and distant 60 feet therefrom, and on the northwesterly side by a prolongation of the northwesterly line of said lot 13;

Together with the water tanks situated thereon, with their appurtenances.

Parcel No. 6. Lot 3 in block 32 in said town, now city, of Avalon, and lot 2 in said block 32, excepting from said lot 2 the strip of land beginning at the most easterly corner of said lot 2; thence along the northeasterly line thereof 11.16 feet; thence south 64°48′ west 103.28 feet to a point in the southwesterly line of said lot 2; thence along said line 22.62 feet to the most southerly corner of said lot; thence along the southeasterly line of said lot 2 to the point of beginning.

Also that certain portion of said unsubdivided area of said town, now city, of Avalon, bounded as follows: Commencing at the most westerly corner of said lot 3, and running thence along the prolongation of the southwesterly line of said lot 3, 40 feet; thence northeasterly parallel with the northwesterly line of said lot 3, to a point in the prolongation of the northeasterly line of said lot 3; thence north 56° east to the shore of the bay of Avalon; thence along said shore to a point distant 125 feet at right angles from the last described line; thence south 56° west to the northeasterly line of said block 32; thence along last said line to the most northerly corner of said lot 3; thence along the northwesterly line of said lot 3 to the point of beginning;

Together with the pumping plant situated thereon, and the buildings, equipment, machinery, tools and appliances thereof, and also all water tanks situated thereon, with their appurtenances.

Parcel No. 7. A strip of land (being a part of the said unsubdivided area of said town, now city, of Avalon), bounded as follows: Beginning at the most westerly corner of lot 420 of East Avalon Terrace as shown on map thereof recorded in Book 9, pages 74 to 79 of Maps, records of said county, and running thence easterly along the northerly line of said lot 420, 126 feet; thence north 11°35′ west 400 feet; thence westerly at right angles 300 feet; thence at right angles southerly to the northerly line of lot 418 of said East Avalon Terrace; thence along the boundary line of lots 418, 419, and 420 of said East Avalon Terrace to the point of beginning;

Together with the reservoir situated thereon, with its appurtenances.

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Parcel No. 8. The most northerly 125 feet of Terrace lot "H" of said East Avalon Terrace;

Together with the water tanks situated thereon, with its appurtenances.

Parcel No. 9. Lots 418, 419 and 420 of said East Avalon Terrace; also all that portion of lots 1 and 2 in block 1, of the town, now city, of Avalon, lying northerly of the southerly line of lot 418 prolonged westerly to the westerly line of said lot 2;

Together with the incline railway situated thereon, with all tracks, rolling stock, machinery, equipment and appliances thereof.

And also, all water pipes and pipe lines, and all oil pipes and pipe lines of said first party, situated in said city of Avalon; together with such right of way over the lands of the first party, in said city of Avalon, as may be necessary for the maintenance, use and operation of such of said pipe lines as are located upon the said lands of the first party.

And also, all electric wire and pole lines of the first party, situated in said city of Avalon; together with such right of way over the lands of the first party, in said city of Avalon, as may be necessary for the maintenance, use and operation of such of said electric lines as are situated upon said lands of the first party.

DECISION NO. 3423.

IN THE MATTER OF THE APPLICATION OF SANTA CATALINA ISLAND COMPANY FOR AN ORDER AUTHORIZING AN ISSUE OF BONDS.

Application No. 2315.

Decided June 16, 1916.

REPORT OF THE COMMISSION.

ORDER RESCINDING PREVIOUS ORDER.

This Commission having heretofore on June 3, 1916, issued its order in the above entitled matter, Decision No. 3397, authorizing Santa Catalina Island Company to issue $1,000,000.00 face value of first mortgage 6 per cent gold bonds, and to mortgage its property as security for said bonds; and

Santa Catalina Island Company having requested this Commission that the order heretofore issued in the above entitled matter be rescinded for the reason that the authorization to issue bonds heretofore referred to is not now desired nor required by said Santa Catalina Island Company,

It is hereby ordered that the order of this Commission in the above entitled matter, dated June 3, 1916 (Decision No. 3397), be and it is hereby rescinded.

Dated at San Francisco, California, this 16th day of June, 1916.

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DECISION No. 3424.

RICE ASSOCIATION OF CALIFORNIA AND PACIFIC RICE GROWERS ASSOCIATION

vs.

SOUTHERN PACIFIC COMPANY AND ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 923.

Decided June 16, 1916.

Complainants bring into question rates on rice in carload lots between various Sacramento and San Joaquin Valley points to San Francisco, Sacramento, Biggs and Gridley. Various comparisons used in connection with which it is held that while comparisons are not conclusive as to the reasonableness or unreasonableness of a rate, they aid materially in the solution of such questions.

Held, That paddy rice is given no different attention or treatment than other commodities such as wheat, other cereals, dried fruits, etc., and though its value is slightly higher than wheat, it is less than dried fruits and the loss and damage claims in connection therewith are of a neglible quantity. That the present rates are unjust and unreasonable, defendants directed to put into effect schedules herein established within twenty days.

Chapman & Thompson, for Complainants.

Geo. D. Squires, for Southern Pacific Company.

G. H. Baker, for Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

Complainants in the above entitled case, the Rice Association of California, a voluntary, unincorporated association of persons, firms and corporations, and the Pacific Rice Growers Association, a corporation organized and existing under the laws of the State of California, are engaged in growing, buying and marketing paddy rice or rough rice and the products thereof. They are also organized to promote and defend the interests of the rice industry.

In complaint filed February 17, 1916, it is alleged that the rates charged by defendants for the transportation of paddy rice, in carloads, from and to various points in California, are unjust and unreasonable, therefore unlawful. It is also alleged that the existing carload rates on paddy rice create undue discrimination against the rice growers of this State.

A few of the rates complained of, which are typical of the others, are set forth in the following table, also the points from and to which the rates apply, the distances and tariff reference:

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PADDY RICE IN CARLOADS.

Minimum Weight, 40,000 Pounds.

Distance (miles)	From	To	Rate in cents per 100 lbs.	Tariff reference
167.0	Chico	San Francisco	18¾	Southern Pacific Company C.R.C. 1632.
150.2	Richvale		17½	
144.2	Biggs		17½	
123.6	Marysville		17½	
149.9	Willows		17½	
84.9	Woodland		11¼	
122.5	Oakdale	San Francisco	14	See Note 1.
139.1	Merced		17½	
194.1	Fresno		21	
301.5	Bakersfield		25	
95.4	Chico	Sacramento	15	Southern Pacific Company C.R.C. 1632.
78.6	Richvale		11	
72.6	Biggs		10½	
52.0	Marysville		8¾	
87.5	Willows		13¾	
22.5	Woodland		7½	
79.5	Oakdale	Sacramento	14	See Note 2.
115.1	Merced		17½	
170.1	Fresno		21	
277.5	Bakersfield		25	
20.6	Marysville	Biggs	6	Southern Pacific Company C.R.C. 1632
86.7	Willows		15	
206.0	Dos Palos		27¾	
17.2	Marysville	Gridley	6	
90.1	Maxwell		15	
202.6	Willows		15	

NOTE 1.—Via Southern Pacific Company, C.R.C. 1632. Via Atchison, Topeka and Santa Fe Railway, C.R.C. 302.

NOTE 2.—Via Southern Pacific Company, C.R.C. 1632. Via Atchison, Topeka and Santa Fe Railway, and Southern Pacific Company, F. W. Gomph, Agent, C.R.C. 111.

Complainants further alleged that prior to February 1, 1916, Southern Pacific Company's Freight Tariff No. 793, C. R. C. 1761, provided for the transportation of paddy rice in carloads at grain rates. The Commission is asked to determine and prescribe just, reasonable and nondiscriminatory rates to be charged in the future.

A public hearing was held at Biggs on the 4th day of May, 1916; both sides having introduced all their evidence, the case was submitted and is now ready for adjudication.

That portion of the complaint alleging that prior to February 1, 1916, carrier's tariff provided for the transportation of paddy rice in carloads at grain rates will be dismissed, for the reason that the same question was before the Commission and disposed of in its Decision No. 2783, Case No. 831, *California Rice Mills* vs. *Southern Pacific Company.*

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The records disclose that the first year rice is cultivated the yield per acre is approximately 5,000 pounds, but that in subsequent years the production ranges from 3,500 to 4,000 pounds per acre. Rice in California is principally grown in the Sacramento Valley, north of Sacramento and south of Tehama, paralleling the Sacramento River. It is also grown in the San Joaquin Valley, south of Stockton and north of Bakersfield. The culture of rice was first introduced into California in the year 1910; during that year 135,000 pounds was produced and the yield has materially increased each succeeding year. The production of paddy rice during 1915 reached a total of 90,947,340 pounds. It is estimated that there will be under cultivation during the current year 70,000 acres, and using the lowest yield per acre as a basis, there will be produced 5,500,000 bushels, or 245,000,000 pounds, equal to 6,125 carloads of 40,000 pounds each. Should the acreage for the year 1917 increase at the same ratio, the volume of tonnage will surpass that of wheat in these districts.

In support of their contention that the present rates on paddy rice are unjust and unreasonable, complainants filed various exhibits comparing defendants' California intrastate rates on paddy rice with the rates in effect in the states of Texas, Louisiana and Arkansas on the same commodity for like distances. These exhibits also show the rates on wheat and other cereals in the same states. As the California producing points are numerous, I have for convenience selected at random only a few shipping points and prepared three statements, adding thereto the rate per ton-mile, earnings per car and earnings per car-mile. Statement "A" follows, and compares the California rates on paddy rice with the rates on wheat, barley, oats, rye and corn.

SCHEDULE "A."

To San Francisco from—	Distance	Rate in cents per 100 lbs.		Rate in cents per ton-mile		Earnings per car		Earnings per car-mile	
		1	2	1	2	1	2	1	2
Willows	149.9	17½	13½	2.3348	1.8012	$70 00	$10 50	$0 467	$0 2702
Marysville	123.6	17½	11½	2.8317	1.8608	70 00	34 50	0 566	0 279
Biggs	144.2	17½	13½	2.4272	1.8377	70 00	39 75	0 485	0 276
Chico	167.0	18¾	14	2.2455	1.6766	75 00	42 00	0 449	0 252
Oakdale	122.5	14	8½	2.2857	1.3878	56 00	25 50	0 457	0 208
Fresno	194.1	21	13¾	2.1638	1.4168	84 00	41 25	0 433	0 213
Bakersfield	301.5	25	16¾	1.6584	1.111	100 00	50 25	0 332	0 167
To Sacramento from—									
Woodland	22.5	7½	5	6.6667	4.4444	30 00	15 00	1 333	0 667
Maxwell	70.6	13¾	8¾	3.8952	2.4788	55 00	26 25	0 779	0 372
Marysville	52.0	8¾	5	3.3654	1.9231	35 00	15 00	0 673	0 288
Biggs	72.6	10½	7	2.8926	1.9284	42 00	21 00	0 579	0 289
Merced	115.1	17½	11	3.0408	1.9114	70 00	33 00	0 608	0 287
Fresno	170.1	21	13¼	2.4691	1.5579	84 00	39 75	0 494	0 234
Bakersfield	277.5	25	16¼	1.8018	1.1712	100 00	48 75	0 36	0 176

(1) Paddy rice, minimum carload weight, 40,000 pounds.
(2) Wheat and other cereals, minimum carload weight, 80,000 pounds.

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The earnings per car and per car-mile are based upon the minimum weight per car. It will be observed from the foregoing table that the minimum carload weight on paddy rice is 10,000 pounds greater than on the other cereals; also, that the rates per 100 pounds and per ton-mile are considerably in excess of those assessed on the other commodities. Further, in almost every instance, the earnings per car and per car-mile are over 100 per cent greater than on the other cereals.

Defendants contend that the rates on wheat, etc., are below normal, having been made in many instances to meet competition by water, and should not be used to test the reasonableness of the rates on paddy rice. Complainants presumably accepted this as a true statement, for it was not controverted, though they maintained that paddy rice could be transported as safely by water as the other articles, but failed to introduce evidence that it actually so moved. Paddy rice being a cereal, the same as the other commodities, the comparisons with some limitations are appropriate, particularly so as paddy rice after the hull is removed becomes a food product, and is second only in importance to wheat.

Schedule "B" compares the paddy rice rates to San Francisco from the points specified, which are representative of other California rates shown in complainants' exhibits, with the rates obtaining on the same commodity in the states of Texas, Louisiana and Arkansas for like distances.

SCHEDULE "B."

PADDY RICE.

Rates in Cents per 100 Pounds.

To San Francisco from—	Distance	California	Texas	Louisiana	Arkansas
Dixon	67.5	11½	6	8¾	8
Woodland	84.9	11½	7	10½	8½
Zamora	95.8	13¾	7½	10½	9
Colusa Junction	129.1	17½	9	12	10½
Willows	149.9	17½	10	12	11
Marysville	123.6	17½	9	11½	10½
Biggs	144.2	17½	10	12	11
Chico	167.0	18¾	11	12	12
Oakdale	122.5	14	9	11½	10½
Merced	139.1	17½	9½	12	11
Oxalis	148.4	17½	10	12	11
Kerman	181.6	20¾	12	12	13
Fresno	194.1	21	12½	12	13
Pixley	255.4	24	15	12	14½
Bakersfield	301.5	25	15	12	15½

Schedule "B" plainly indicates that the paddy rice rates in California are greatly in excess of the rates obtaining in the other states.

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It is also noted that for distances less than 180 miles the Louisiana scale is higher than the Texas or Arkansas scale, while for greater distances the Arkansas scale is the higher.

Defendants contend that the rates in other localities should not be used to measure the reasonableness of the rates here considered, unless it be shown that the conditions surrounding the transportation are identical. This contention is correct, for such comparisons, to be forceful, should be supported by testimony showing that the transportation conditions are similar or dissimilar.

The traffic herein considered moves over a practically level stretch of country, consequently rates constructed on distance scales applying between all points in such states as Texas, Louisiana and Arkansas, regardless of transportation conditions, are comparable, and while not controlling as to the reasonableness of rates in California, they are enlightening.

Schedule "C" shows the paddy rice rates in California between certain points and what the rates would be under the Louisiana scale; it also shows the rates per ton-mile, earnings per car and per car-mile.

SCHEDULE "C."

To Sacramento from—	Distance	Rate in cents per 100 lbs.		Rate in cents per ton-mile		Earnings per car		Earnings per car-mile	
		1	2	1	2	1	2	1	2
Willows	149.9	17½	12	2.3318	1.601	$70 00	$36 00	$0 467	$0 240
Marysville	123.6	17½	11½	2.8317	1.861	70 00	34 50	0 566	0 279
Biggs	141.2	17½	12	2.4272	1.664	70 00	36 00	0 485	0 249
Chico	167.0	18¾	12	2.2455	1.437	75 00	36 00	0 449	0 216
Oakdale	122.5	14	11½	2.2857	1.878	56 00	34 50	0 457	0 282
Fresno	191.1	21	12	2.1638	1.236	84 00	36 00	0 433	0 185
Bakersfield	301.5	25	12	1.6584	0.080	100 00	36 00	0 332	0 119
To Sacramento from—									
Woodland	22.5	7½	5½	6.6667	0.467	30 00	15 75	1 333	0 700
Maxwell	70.6	13¾	10½	3.8952	0.290	55 00	30 75	0 779	0 436
Marysville	52.0	8¾	8½	3.3654	0.327	35 00	25 50	0 673	0 490
Biggs	72.6	10½	10½	2.8926	0.282	42 00	30 75	0 579	0 424
Merced	115.1	17½	11½	3.0408	0.200	70 00	34 50	0 608	0 300
Fresno	170.1	21	12	2.4691	0.141	84 00	36 00	0 494	0 212
Bakersfield	277.5	25	12	1.8018	0.086	100 00	36 00	0 360	0 130

(1) Paddy rice, in California, minimum carload weight, 40,000 pounds.
(2) Paddy rice, Louisiana scale, minimum carload weight, 30,000 pounds.

Table "C" shows the great disparity between rates per 100 pounds and per ton-mile on paddy rice in California and Louisiana. Had we used either the Texas or Arkansas scale the differences would have been far greater in practically each instance. It will be further noted that the earnings per car and per car-mile in California are largely in excess of Louisiana.

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Complainants introduced other exhibits giving the rates on crude oil, canned goods, fresh fruits and vegetables from and to points in California compared with rates in Texas, Arkansas and Louisiana for like distances. The exhibits indicate that the rates on crude oil are practically the same in California and Texas; on canned goods the Texas rates are higher than the California rates, while the Arkansas rates are in many instances lower. On fresh fruits and vegetables the California rates are on a lower level than in either of the other states, except on apples moving in Arkansas, some rates being lower, others higher, than the California rates. Comparisons were likewise made between the rates on paddy rice and dried fruits, fresh fruits and vegetables between certain California points, indicating that the paddy rice rates are in excess of the rates on the other commodities. Defendants' witness, in justification of the present adjustment of the rates here involved, testified that the movement of paddy rice necessitated special equipment, such as refrigerator cars, and in substantiation introduced as an exhibit orders for such cars signed by certain shippers. On cross-examination it developed that with one exception the refrigerator cars ordered were for interstate and not intrastate traffic, and the party signing the intrastate order could give no reason for requesting such equipment. Complainants in rebuttal testified that their orders simply specified "cars," also that they preferred ordinary cars, for the reason that they could be more heavily and conveniently loaded.

Defendants undertook to prove that special attention is accorded cars used in transporting paddy rice, and in support thereof introduced an exhibit entitled "Code of Rules, governing the receiving, stowing, handling and delivery of less than carload freight." The only part of these rules referring to carload freight is shown on page 25 of the exhibit, which reads:

> "Rules for the inspection and certification of cars, before loading with freight subject to damage.
>
> Cars furnished for loading merchandise, grain, beans, wool, hops, flour, sugar, rice, tea, matting, paper and other commodities liable to damage on account of defective or unclean equipment must be carefully inspected and only clean, dry cars in good condition used.
>
> Weather strip doors on outside of car with water proof papers; shipments moving between California, Nevada, Utah, Arizona and New Mexico, from October 1st to April 30th, all other shipments throughout the year."

It is apparent that these instructions are to obviate damage claims, and that paddy rice is given no different attention or treatment than other commodities. The records disclose no transportation differences

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in the movement of paddy rice, wheat, other cereals and dried fruits; that the value of paddy rice is but a trifle higher than wheat and less than dried fruit; that loss and damage claims are a negligible quantity; that paddy rice is usually loaded beyond the minimum prescribed, and that no different equipment is required for its transportation.

After carefully considering all the facts and circumstances hereinbefore cited, I find that the rates complained of are unjust and unreasonable, and that the rates herein prescribed are just and reasonable rates.

I submit herewith the following form of order:

ORDER.

The Rice Association of California and the Pacific Rice Growers Association having filed a complaint with this Commission alleging that the Southern Pacific Company's and the Atchison, Topeka and Santa Fe Railway Company's local and joint rates on paddy rice in carloads from and to points specified in the complaint, are unjust and unreasonable, and a public hearing having been held and the Commission being fully apprised in the premises, and basing its order upon the findings of facts which appear in the opinion preceding this order,

It is hereby ordered that the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company, or their authorized agent, publish and file with this Commission, on or before twenty days from the date of service of this order local and joint rates on paddy rice in carloads, as set forth in Schedules Nos. 1, 2 and 3, hereto attached and made a part hereof. The rates appearing in the schedules referred to are hereby established as just and reasonable rates to be charged by the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company and jointly by the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company.

It is further ordered that in case interested carriers can not agree upon the divisions of the joint rates herein established, they shall make application to this Commission on or before thirty (30) days from the date of this order, at which time the Commission will proceed to establish divisions, as prescribed by law.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 16th day of June, 1916.

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SCHEDULE No. 1.

Rates in Cents per 100 Pounds on Paddy Rice in Carloads, Applicable via The Southern Pacific Company.

From— To—	San Francisco	Sacramento	Biggs	Gridley
Winters	11	9		
Esparto	12	10½		
Dixon	10	6		
Woodland	11	6		
Zamora	11½	7		
Colusa Junction	13	10		
Maxwell	13½	10½	12	12
Delavan	13½	10½	11½	12
Norman	14	10½		
Willows	14½	11	11	11½
Marysville	13	9	6	5
Mello	13½	9	6	
Gridley	14	10		
Biggs	14	10½		
Richvale	14½	10½		
Durham	15	11		
Chico	15	11½		
Dos Palos	14	13½	17	
Oxalis	14	14		
Kerman	16	15½		
Burrell	17	17		
Oakdale	12	10½		
Merced	13½	12½		
Fresno	16½	15½		
Pixley	19½	18½		
Bakersfield	22	20½		
Rio Bravo	22½	22		
Buttonwillow	23	22½		

SCHEDULE No. 2

Rates in Cents per 100 Pounds on Paddy Rice in Carloads, Applicable via The Atchison, Topeka and Santa Fe Railway Company.

From—	To—	Rate
Oakdale	San Francisco	12
Fresno		16½
Corcoran		19
Waukena		19½
Alpaugh		23
Pond		20½
Wasco		21
Shafter		21½
Bakersfield		22

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SCHEDULE No. 3.

Rates in Cents per 100 Pounds on Paddy Rice in Carloads, Applicable via The Atchison, Topeka and Santa Fe Railway Company and The Southern Pacific Company.

From—	To—	Rate
Corcoran	Sacramento	17½
Waukena		18
Alpaugh		21½
Pond		19
Wasco		19½
Shafter		20

DECISION No. 3425.

IN THE MATTER OF THE APPLICATION OF SAN FRANCISCO-OAKLAND TERMINAL RAILWAYS FOR PERMISSION TO ABANDON AND REMOVE CERTAIN PORTIONS OF ITS STREET RAILWAY SYSTEM IN THE CITY OF OAKLAND.

Application No. 1951.

Decided June 16, 1916.

REPORT OF THE COMMISSION.

San Francisco-Oakland Terminal Railways having made application for permission to abandon a portion of its double track street railroad on Fifth avenue in the city of Oakland, county of Alameda, commencing at a point in the westerly track thirty (30) feet distant southerly and in the easterly track one hundred and forty (140) feet distant southerly from the southwesterly property line of East Fourteenth street and running thence northeasterly along Fifth avenue through, to and including the point of connection in a single track connection of both of said tracks with the East Eighteenth street railroad line, as indicated on Drawing 9246-D, filed as Applicant's Exhibit "A" in this proceeding; an investigation having been made and the Commission being of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted,

It is hereby ordered that this application be and the same is hereby granted.

Dated at San Francisco, California, this 16th day of June, 1916.

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DECISION NO. 3426.

IN THE MATTER OF THE APPLICATION OF NORTH FORK DITCH COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN RATES CHARGED FOR WATER IN CARDWELL COLONY.

Application No. 2292.

Decided June 16, 1916.

Applicant applies for permission to increase irrigation rates to the Cardwell Colony from $20.00 to $30.00 per miner's inch year, and it appearing that such increase is justified, application granted, provided that applicant render efficient and adequate service thereunder.

Lester J. Hinsdale, for Applicant.

A. F. Lacey, for water users of Cardwell Colony.

REPORT OF THE COMMISSION.

This is an application by North Fork Ditch Company for an order authorizing an increase in the rates charged for water sold by petitioner in what is known as the Cardwell Colony.

Applicant is now entitled to charge its consumers in Cardwell Colony twenty (20) dollars per miner's inch year for water delivered at the Penstock Reservoir, collections being made from individual consumers. It has purchased from Philip S. Driver and B. F. Driver the pipe line system now being used to distribute water to Cardwell Colony and claims that the purchase, rehabilitation, maintenance and operation of this system entitle the applicant to charge the individual consumers of Cardwell Colony the rate charged to consumers on the main ditch and laterals, or thirty (30) dollars per miner's inch year.

A public hearing in this proceeding was held at Folsom on June 7, 1916. Evidence was presented by petitioner herein and in behalf of consumers in Cardwell Colony.

In Decision No. 3165, decided March 17, 1916, the Railroad Commission authorized the rates which should be charged by applicant to all of its consumers. The rate provided for the consumers of Cardwell Colony was twenty (20) dollars per miner's inch year, one miner's inch being equal to one-fiftieth cubic foot per second. The rates as set were intended to be such as would give a fair rate of return on the cost of the property then owned and operated by the company. It appears that the increase in rate from twenty (20) dollars to thirty (30) dollars per miner's inch year in Cardwell Colony is urged solely on account of the additional annual charges due to the control by the company of the Cardwell Colony pipe system.

No appraisal of this distribution pipe system was presented at the hearing. According to the evidence its cost by purchase to the

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North Fork Ditch Company was $1,000.00. The company's engineer, George S. Nickerson, testified that it would be necessary to spend from $4,000.00 to $5,000.00, in the next few years to rehabilitate the pipe lines in the colony. But it appears that the greater part of this expense would be due to service to a larger number of consumers than exist at present. As pointed out by Milo H. Brinkley, one of the Commission's engineers, the principal expense to give adequate service to the existing consumers would be the installation of meters and repairs which would eliminate the excess leakage now occurring in the pipe lines.

At the hearing, the petitioner made no claim that they be allowed interest on their investment in the distribution pipe system of Cardwell Colony. It appears that the capacity of the main pipe lines, if properly repaired, is much greater than is necessary for the present consumers, and the company is content with an increase in rates, which increase will pay the expense of operating this distribution system.

The company introduced evidence in regard to the probable annual expense of maintenance and operation of the Cardwell Colony pipe system. The lowest estimate of Mr. Nickerson was $200.00 per year for reading meters, operating the system and keeping up repairs. An allowance of $200.00 per annum appears to be reasonable to the present consumers for maintenance and operating expenses of the Cardwell Colony pipe system.

The testimony showed that applications for water amounting to twelve or fifteen inches had been received from the colonists this season, and that the probable total applications would amount to twenty inches. The increase in rate of $10.00 per miner's inch year, due to the operation of this distribution system, would give $200.00 additional revenue per year on the basis of twenty inches use. This appears to be just sufficient to pay the operating expenses of the distribution system and justifies the increase in rate to $30.00 per miner's inch year.

Evidence was presented by the consumers to the effect that they could not afford to pay an increased rate and would have to leave their ranches if the $30.00 rate was put in effect. On investigation of this claim, however, it is found that the rates paid by the consumers on the main ditch and laterals of the North Fork Ditch Company are the same as the rate which the petitioner asks for Cardwell Colony. As these communities adjoin Cardwell Colony and have paid these rates for many years, this claim does not appear to be well founded. There has been complaint of service among the colonists and the petitioner has declared its intention of improving the service by repairing the pipe lines and installing meters, so that the colonists may be able to obtain the water for which they are charged. The increase in rate herein

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established is fixed with the understanding that the company will be required to provide adequate service.

ORDER.

North Fork Ditch Company having applied to the Railroad Commission for an order authorizing an increase in the rate charged by said company for water sold in Cardwell Colony, and a public hearing having been held herein,

The Railroad Commission hereby finds as a fact that the rate now charged by North Fork Ditch Company in said colony is unjust and unreasonable in so far as it differs from the rate herein established, and that the rate herein established is a just and reasonable rate to be charged by North Fork Ditch Company in Cardwell Colony.

Basing its order on the foregoing finding of fact and on the findings of fact contained in the opinion which precedes this order,

It is hereby ordered that the North Fork Ditch Company be and the same is hereby authorized to file with the Railroad Commission the following irrigation rate to be charged in Cardwell Colony:

Thirty (30) dollars per miner's inch year.

The term miner's inch used herein means one-fiftieth cubic foot per second.

Dated at San Francisco, California, this 16th day of June, 1916.

DECISION No. 3427.

IN THE MATTER OF THE APPLICATION OF INYO LIVESTOCK ASSOCIATION AND INTERSTATE TELEGRAPH COMPANY FOR AN ORDER FIXING RATES ON TELEPHONE AND TELEGRAPHIC MESSAGES OF THE FORMER, AND FIXING TERMINAL CHARGES FOR INTERCHANGE OF BUSINESS BETWEEN THOSE APPLICANTS.

Application No. 2254.

Decided June 16, 1916.

Inyo Livestock Association authorized to establish a rate of 25 cents for messages between stations on its line, except the station at Lone Pine, and 35 cents for messages originating or terminating within the exchange area of the Interstate Telegraph Company at Lone Pine, such rates for an initial period of five minutes, equal rates for each additional five minutes or fraction. Interstate Telegraph Company to collect a terminal charge of 6 cents on messages passing over the lines of the livestock association and originating or terminating within the exchange area at Lone Pine, except on official business of the forest service, the government being entitled to free service.

Isaac B. Potter, for Applicants.

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REPORT OF THE COMMISSION.

Inyo Livestock Association, a voluntary association of stockmen organized for their mutual advantage and protection, owns a telephone line about 45 miles long in Inyo and Tulare counties, located principally in the Sierra Nevada mountains. It applies to have established a rate, applying over its own lines only, of 25 cents for telephone conversations of five minutes or less, and 25 cents for each additional five minutes or fraction thereof, and a rate of 35 cents for similar periods for conversations between stations on its lines and stations on the lines in Lone Pine, belonging to the Interstate Telegraph Company. Both applicants seek approval of an agreement between them by which Interstate Telegraph Company is to be paid a terminal charge of 6 cents on each telephone call or telegram passing over the lines of the association and originating or terminating at the Lone Pine exchange of the telegraph company.

The association's line was built in the spring of 1913. Certain members contributed $1,800.00, about $200.00 of which was in labor, and the forest service of the government contributed $800.00 in money and about $400.00 in labor. There are nine instruments in service, of which six belong to the forest service and three to individuals on the line. It is planned to install and connect two additional instruments in the near future, each of which will require the building of about two miles of line. The so-called main line extends from Lone Pine through Tunnel Rangers Station to Monachee, with a line from Tunnel Rangers Station to Kern River and one from Tunnel Rangers Station southerly about ten miles. The line was jointly built with the understanding that the forest service for its official business should have the free use of the system, maintain and repair it, and pay half the salary of the only operator, located at Tunnel Rangers Station; and further that the arrangement may be terminated by either party, in which event the line is to be divided, the association taking over the so-called main line from Lone Pine to Monachee and the forest service taking over the other lines. Because of the high altitudes and the storms and snows, the line is subject to considerable damage during the winter seasons and is operated usually only from about June 15th to September 15th or October 1st, although service ended last year on September 4th. The cost of repairs each spring is about $40.00. The salary of the operator is $20.00 per month, of which the association pays half. The low salary is made possible by the fact that the line requires only the incidental attention of the ranger's wife or an employee of the forest service. The forest service uses the line in connection with its work, particularly in the prevention of forest fires, and the line is used by stockmen for

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communication with their stock camps in the mountains, and considerably by tourists camping or traveling in the vicinity. Heretofore the public has been allowed the free use of the line.

Messages passing over the line last season, exclusive of those relating to the forest service, would have produced the sum of $69.15 if the rates applied for had been in effect at that time and no conversation had exceeded the minimum limit of five minutes, distributed as follows:

	25c messages	35c messages	Total
June 20 to July 21	8	53	61
July 21 to August 20	4	94	98
August 20 to September 4		42	42
	12	189	201

Applicants consider that rates for overtime periods, *i. e.*, for conversations which may exceed the maximum time allowed for minimum rates, if based upon periods of one minute, as is the usual practice among telephone companies, would not be practicable for the service in question, largely because of the difficulty of accurately checking the time consumed. They urge a rate for overtime periods on the same basis as to time allowance that is proposed for the minimum or initial rates. In view of the limited facilities for checking the business, and of the conditions existing in applicant's territory, we see no objection to the adoption of this method of computing overtime charges.

The association proposes to establish a requirement that all connections between instruments on the association's lines shall be made through the operator, so that a check on conversations and proper charges may be made. Applicants believe such a requirement can be readily enforced, although stations on the association's lines can in fact communicate directly with each other without the aid of the operator.

Applicants agree that the terminal charge is to apply only to local calls between Lone Pine and stations on the association's lines. On long distance calls, the terminal charge will be absorbed in the toll rates so that the established toll charges of Interstate Telegraph Company will be maintained. When calls pass between stations located on the association's lines and stations located beyond Lone Pine, the 25 cent rate for the use of the association's lines will apply in addition to the established toll rates of the Interstate Telegraph Company or other connecting lines beyond Lone Pine. Interstate Telegraph Company estimates its cost of terminal service to be slightly in excess of 6 cents. A 10-cent terminal charge by the association for a service costing it

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6 cents will be authorized only because of the particular conditions existing in its case, and the fact, which appears without a valuation of its property, that the probable return of less than 1 per cent on the original investment by the association will not be compensatory.

The association does not seek to compete with Interstate Telegraph Company for business in Lone Pine. It has only one station within the exchange limits of the company's Lone Pine exchange, that being in the office of the forest ranger in Lone Pine. Free service is given this station for official business of the forest service in accordance with agreement with United States Department of Agriculture, Forest Service. Such free service to a branch of the government is authorized under section 17 of the Public Utilities Act by order applying to public utilities of the State in Case No. 293 (Vol. 2, Opinions and Orders of the Railroad Commission of the State of California, p. 73).

ORDER.

Inyo Livestock Association having applied to the Railroad Commission of the State of California for authority to establish rates on telephone and telegraph messages passing over its lines, and it, with Interstate Telegraph Company, having applied for authority to establish a terminal charge for telephone calls or telegraph messages passing over the lines of said Inyo Livestock Association and originating or terminating upon the local lines of Interstate Telegraph Company at Lone Pine, and a public hearing having been held thereon,

It is hereby ordered that Inyo Livestock Association be and it is hereby authorized and empowered to establish a rate of 25 cents for telephone or telegraph messages between all stations on its lines except its station in the office of the forest ranger in Lone Pine; and a rate of 35 cents to or from all points on its lines for telephone or telegraph messages originating or terminating within the exchange limits of Interstate Telegraph Company at Lone Pine; said rates to apply to conversations of five minutes or less, and like rates to apply to each additional five minutes or fraction thereof; said Inyo Livestock Association to file a schedule of said rates, and its rules and regulations, with the Commission within thirty (30) days from the date hereof.

Inyo Livestock Association is authorized to pay and Interstate Telegraph Company is authorized to receive and collect a terminal charge of 6 cents for each telephone or telegraph message passing over the lines of Inyo Livestock Association and originating or terminating at any subscriber's station within the exchange limits of Interstate Telegraph Company's exchange at Lone Pine, except only the station in the office of the forest ranger in Lone Pine, when that station is used for the official business of the forest service.

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It is hereby declared that public convenience and necessity require that Inyo Livestock Association establish and maintain a subscriber's station in the office of the forest ranger of the United States Forestry Service, within the exchange limits of Interstate Telegraph Company's exchange at Lone Pine, for the official business of the forest service, but not elsewhere or for any other purposes within said exchange limits.

This order is made upon the following conditions and not otherwise, to wit:

1. The authority herein granted to establish a schedule of rates shall not be considered or treated in any proceeding before this Commission or any other public authority as a finding by this Commission of actual value of any property described herein for rate fixing purposes or for any purposes other than those of the present application.

2. The only telephone station upon the lines of Inyo Livestock Association which may be established and maintained within the exchange limits of Interstate Telegraph Company's exchange at Lone Pine is the station in the office of the forest ranger of the United States Service located at Lone Pine.

Dated at San Francisco, California, this 16th day of June, 1916.

DECISION No. 3428.

IN THE MATTER OF THE APPLICATION OF J. A. TOWER, DOING BUSINESS UNDER THE NAME AND STYLE OF CALAVERAS TELEPHONE COMPANY, FOR AN ORDER AUTHORIZING CERTAIN TOLL RATES.

Application No. 2299.

Decided June 16, 1916.

Conditions warranting, applicant is authorized to establish the following rates for long distance service: Distances up to and including 14 miles, 10 cents for first two minutes, 5 cents for each additional minute; over 14 miles to 29 miles, 15 cents for first 2 minutes, 5 cents for each additional minute.

REPORT OF THE COMMISSION.

This is an application of J. A. Tower, doing business under the name and style of Calaveras Telephone Company, for authority to establish certain toll rates.

Applicant, as the owner and operator of a telephone system in the western portion of Calaveras County, petitioned this Commission, under Application No. 1929, for authority to increase certain rates on its toll lines running from Felix to Milton and from Felix to Angels Camp. A public hearing was held on said application, and on May 13, 1916, the Commission rendered its opinion and order (Decision No. 3333), under

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which practically all the facts and conclusions necessary for the present decision are fully set forth. The Commission found that the applicant's existing rates were noncompensatory and unreasonable, but inasmuch as applicant was at that time charging rates that were discriminatory as between subscribers and nonsubscribers, and inasmuch as the rates requested were open to the same objection, the Commission denied the application without prejudice and ordered applicant to remove the existing discriminations.

The present application is brought for the purpose of having the following rates established for toll service, said rates to be in addition to the regular monthly rentals, and to apply alike to subscribers and nonsubscribers, viz:

> Up to and including 14 miles, 10 cents for the first 2 minutes or fraction thereof and 5 cents for each additional minute or fraction thereof.
> Over 14 miles and up to and including 29 miles, 15 cents for the first 2 minutes or fraction thereof and 5 cents for each additional minute or fraction thereof.

Applicant has two toll lines, one running from Felix to Milton and one from Felix to Angels Camp. The Commission finds by scaling from U. S. Post Route Maps that the air-line distances between the points hereinafter mentioned are as follows:

> From Felix to Milton, 7½ miles;
> From Felix to Angels Camp, 10 miles;
> From Milton to Angels Camp, 17¼ miles.

Applicant testified that the distances were somewhat greater than those above set forth, but this was probably due to the fact that he confused the length of his telephone lines with the air-line distances. Applicant does not ask for any increase of his local exchange service rates or of his telegraph rates, both of which are set forth in Decision No. 3333 (supra).

Under all the circumstances we find that the application is a reasonable one and should be granted.

ORDER.

J. A. Tower, doing business under the name and style of Calaveras Telephone Company, having applied to this Commission for an order authorizing the establishment of certain rates for toll service upon his telephone system as set forth in the foregoing opinion, and a public hearing having been held upon said application,

This Commission hereby finds as a fact that the existing rates are noncompensatory and unreasonable, and that the rates herein authorized are just and reasonable. Basing its conclusions upon the foregoing findings of fact and upon the further findings, which are contained in the opinion which precedes this order and also in this Commission's Decision No. 3333,

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It is hereby ordered that applicant be and he is hereby authorized to establish the following rates, to apply alike to subscribers and nonsubscribers, viz:

For telephoning over applicant's toll lines for distances up to and including fourteen (14) miles, 10 cents for the first 2 minutes or fraction thereof and 5 cents for each additional minute or fraction thereof.

For telephoning over applicant's toll lines for distances over fourteen (14) miles up to and including twenty-nine (29) miles, 15 cents for the first 2 minutes or fraction thereof and 5 cents for each additional minute or fraction thereof.

All distances are to be computed upon the basis of air-line measurement.

It is hereby further ordered that the rates herein authorized shall not become effective before July 1, 1916, nor until applicant has filed in duplicate with this Commission, a schedule of said new rates showing the respective charges to be made on calls between all points upon his toll lines.

Dated at San Francisco, California, this 16th day of June, 1916.

DECISION No. 3429.

IN THE MATTER OF THE APPLICATION OF BALDWIN & HOWELL FOR PERMISSION TO LEASE THE SAN MATEO PARK WATER SYSTEM.

Application No. 2296.

Decided June 16, 1916.

Baldwin & Howell authorized to lease a certain water system, serving consumers in the town of San Mateo, to Vernard O. Davis, at an annual rental of $900.00.

A. S. Baldwin and *Vernard O. Davis*, for Applicants.

C. K. Melrose for certain consumers.

REPORT OF THE COMMISSION.

Applicant seeks authority of the Railroad Commission to execute a lease by Baldwin & Howell, owners of the domestic water system supplying the residents of San Mateo Park Tract, San Mateo, to Vernard O. Davis, as lessee, at a rental of $900.00 per year. Mr. Davis, who joins in the application, has been lessee and operator of the system for about eight years.

Applicant primarily constructed this water plant in three installments in 1902, 1904 and 1906, as an incident to the development of a 275-acre tract for residence purposes. Some four or five years ago the tract became part of the city of San Mateo.

The owners are unable to state the original cost of the system, owing to the fact that all records pertaining to it were destroyed in the San Francisco fire of 1906.

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The system consists of two pumping plants, with a combined capacity of 4,000 gallons per hour, some seven miles of distribution mains, principally 3-inch, and two storage tanks having a total capacity of 50,000 gallons. There are 165 consumers, all metered. The rate for service is identical with that in the city of San Mateo, 22½ cents per 100 cubic feet, with a $1.00 minimum. No increase in rates is contemplated. Except in the winter months, the combined capacity of the pumping plants is not sufficient to meet the demand and additional water is purchased from Spring Valley Water Company at the regularly established San Francisco rates of that company.

At the hearing Mrs. A. R. McCullough, Mrs. H. Manley and Messrs. C. K. Melrose, A. Berbert and J. A. Rutherford gave information concerning service conditions. They stated that in certain sections of the tract the pressure was very inadequate, and for short periods during heavy use in the summer days, the supply entirely failed at times. They stated this to be their only criticism of the service, and offered no objection to the lease if it would not hinder improvement in service.

Mr. Davis, manager of the property, admitted that in the past, due to inadequate pumped supply, in conjunction with insufficient storage at a comparatively low level, and small distribution pipes, service to some consumers, particularly in the higher portions of the tract, had not been of the best, but stated that certain improvements to be completed in about ten days would undoubtedly eliminate these conditions.

James Armstrong, one of the Commission's hydraulic engineers, who investigated this property estimates the reproduction cost new of the system at $26,000.00, with annual depreciation on a 4 per cent sinking fund basis at $586.00. These figures are stated to be only approximate, as no complete inventory of the property is in existence. While at the present time there are only 165 consumers, service connections have been installed for 300, indicating that the system is capable of supplying at least that number, and that its operative service value is only about 50 per cent. Concerning service conditions, he reports that the recent installation of double the previous amount of storage at an elevation 40 feet higher, together with the construction and connection with the system of a 1,500-gallon-per-hour pumping plant, the personal property of Mr. Davis, and a proposed automatic connection with the mains of Spring Valley Water Company, should result in greatly improved service.

In view of the fact that the terms of the lease are not unreasonable or burdensome, and do not relieve the water system of its public utility obligations, and that a decidedly improved service seems assured, the application will be granted.

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ORDER.

Baldwin & Howell, a corporation, having applied to the Railroad Commission for authority to execute a lease of the water system supplying San Mateo Park, San Mateo, with domestic water, to Vernard O. Davis, as lessee, who joins in the application, and a public hearing having been held thereon and the Commission being now fully advised,

It is hereby ordered that Baldwin & Howell, Incorporated, and Vernard O. Davis, be and they are hereby authorized and empowered to execute and deliver lease of the water system supplying domestic water to the residents of San Mateo Park, San Mateo, said lease to be in form of that attached to the application as Exhibit "A."

This order is upon the following conditions and not otherwise, to wit:

1. The authority hereby given to lease said property shall not be considered before this Commission or any other public authority as representing for rate making purposes, or for any purposes other than those of the present application, the actual value of the property authorized to be leased.

2. The authority hereby granted shall apply only to such lease as shall have been executed and delivered on or before thirty (30) days after the date hereof.

3. Within twenty (20) days after said lease shall have been executed, applicants shall report said fact to this Commission in writing and supply copy of said lease in the form in which it is executed.

Dated at San Francisco, California, this 16th day of June, 1916.

DECISION No. 3430.

IN THE MATTER OF THE APPLICATION OF NORTHERN ELECTRIC RAILWAY COMPANY FOR AN ORDER APPROVING CERTAIN NOTES ISSUED BY APPLICANT.

Application No. 1059.

Decided June 16, 1916.

Applicant authorized to issue eight promissory notes, of an aggregate face value of $185,000.00, in renewal of notes heretofore issued without the Commission's authorization.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission in its Decision No. 1902 (Vol. 5, Opinions and Orders of the Railroad Commission of California, page 659), authorized the applicant herein to issue certain promissory notes in lieu of other notes previously issued without the authority of the Commission; and

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Whereas applicant has now represented to the Commission that it has been unable to issue said notes, by reason of the fact that it has been without funds to pay the fee prescribed by section 57 of the Public Utilities Act, as amended; and

Whereas applicant has now requested the Commission that it be granted authority to issue certain of said notes upon payment of the prescribed fee,

It is hereby ordered that Northern Electric Railway Company be and it is hereby authorized to issue its promissory notes as follows:

Payee	Interest	Amount	Term
First Federal Trust Company	7%	$50,000 00	Demand
First National Bank of San Francisco	7%	25,000 00	Demand
Mutual Savings Bank	7%	25,000 00	Demand
Mutual Savings Bank	7%	25,000 00	Demand
Mutual Savings Bank	7%	20,000 00	Demand
Richmond Savings Bank	7%	5,000 00	Demand
Richmond Savings Bank	7%	10,000 00	Demand
Mutual Savings Bank	7%	25,000 00	Demand

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The notes herein authorized to be issued shall be issued for the purpose of taking up and cancelling the following notes issued without the authority of the Commission:

Present number	Date	Payee	Term	Rate of interest	Amount
2935	Dec. 13, 1913	First Federal Trust Company	10 days	7%	$50,000 00
2918	Nov. 26, 1913	First National Bank of San Francisco	10 days	7%	25,000 00
2994	Feb. 6, 1914	Mutual Savings Bank	10 days	7%	25,000 00
2995	Feb. 6, 1914	Mutual Savings Bank	10 days	7%	25,000 00
2996	Feb. 6, 1914	Mutual Savings Bank	10 days	7%	20,000 00
2938	Dec. 17, 1913	Richmond Savings Bank	4 mos.	7%	5,000 00
2939-40	Dec. 17, 1913	Richmond Savings Bank	4 mos.	7%	10,000 00
2997	Feb. 6, 1914	Mutual Savings Bank	10 days	7%	25,000 00

2. Before issuing the notes herein authorized applicant shall pay the fee prescribed by section 57 of the Public Utilities Act, as amended.

3. The authority herein granted shall apply only to such notes as shall have been issued on or before January 1, 1917.

4. The authority herein granted to issue a portion of the notes hereinbefore authorized, on payment of the fee applicable thereto, is granted on the facts of this proceeding and is not to be taken as a precedent in other proceedings.

Dated at San Francisco, California, this 16th day of June, 1916.

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DECISION No. 3431.

IN THE MATTER OF THE APPLICATION OF NORTHERN ELECTRIC RAILWAY COMPANY—MARYSVILLE AND COLUSA BRANCH—FOR AN ORDER APPROVING CERTAIN NOTES ISSUED BY APPLICANT.

Application No. 1337.

Decided June 16, 1916.

Applicant authorized to issue a note in the sum of $25,000.00, such note to be issued in renewal of a note of a like amount heretofore issued without authorization.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission in a Decision numbered 1901 (Vol. 5 of Opinions and Orders of the Railroad Commission of the State of California, p. 658), authorized the applicant herein to issue certain promissory notes in lieu of other notes previously issued without authority of the Commission; and

Whereas applicant has now represented to the Commission that it has been unable to issue said notes as authorized by the Commission by reason of the fact that it has been without funds to pay the fee prescribed by section 57 of the Public Utilities Act as amended; and

Whereas applicant has now requested the Commission that it be granted authority to issue certain of said notes upon payment of the prescribed fee,

It is hereby ordered that Northern Electric Railway Company—Marysville and Colusa Branch—be and it is hereby authorized to issue its certain promissory note as follows:

Payee	Amount	Interest	Term
First National Bank of San Francisco	$25,000 00	6%	Demand

The authority herein granted is granted upon the following conditions and not otherwise:

1. The note herein authorized to be issued shall be issued for the purpose of taking up and cancelling the following note issued without the authority of the Commission.

Date	Payee	Amount	Interest	Term
Sept. 12, 1913	First National Bank of San Francisco	$25,000 00	6%	*

*Discounted 120 days after date.

2. Before issuing the note herein authorized applicant shall pay the fee prescribed by section 57 of the Public Utilities Act as amended.

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3. The authority herein granted shall apply to such note as shall have been issued on or before January 1, 1917.

The authority herein granted to issue a portion of the notes hereinbefore authorized on payment of the fee applicable thereto is granted on the facts of this proceeding and is not to be taken as a precedent in any other proceedings.

Dated at San Francisco, California this 16th day of June, 1916.

DECISION No. 3432.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED SIXTY-SIX THOUSAND DOLLARS, AND NOTES OF THE FACE VALUE OF THIRTY-THREE THOUSAND DOLLARS.

Application No. 1731.

Decided June 16, 1916.

REPORT OF THE COMMISSION.

TWELFTH SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 2726, dated August 31, 1915, authorized the delivery to Western States Gas and Electric Company of $182,000.00 face value of bonds, the issue of which was authorized by Decision No. 2550, dated June 30, 1915, provided that said Western States Gas and Electric Company deposit with the trustee, Girard Trust Company, the sum of $182,000.00 in cash, said $182,000.00 so deposited with the trustee to be withdrawn by applicant herein from time to time in accordance with the order of this Commission permitting the withdrawal; and

Whereas applicant has heretofore reported the cost of additions and betterments at $177,746.63 and has been permitted to withdraw a like amount from the $182,000.00 deposited with the trustee; and

Whereas applicant reports that under its deed of trust it can issue bonds only to pay for 75 per cent of the cost of additions and betterments and consequently has withdrawn from the aforesaid $182,000.00 only $132,000.00, leaving $50,000.00 on deposit with the trustee; and

Whereas applicant reports in a statement filed May 29, 1916, that it has expended from April 1, 1916, to April 30, 1916, both dates inclusive, the sum of $10,759.17 for extensions, additions and betterments to its plant; and

Whereas applicant asks authority to withdraw from the aforesaid fund of $50,000.00 remaining on deposit with the trustee the sum of

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$8,069.38, representing 75 per cent of the cost of extensions, additions and betterments installed during the month of April, 1916, and good cause appearing,

It is hereby ordered that Western States Gas and Electric Company be given authority and it is hereby given authority to withdraw from Girard Trust Company the sum of $8,069.38, being a portion of the amount deposited with the trustee in accordance with Decision No. 2727, dated August 31, 1915, of the Railroad Commission of the State of California.

It is hereby further ordered that Decision No. 2550, dated June 30, 1915, as amended by the supplemental orders thereto, shall remain in full force and effect except as it may be modified by this twelfth supplemental order.

Dated at San Francisco, California, this 16th day of June, 1916.

DECISION No. 3433.

IN THE MATTER OF THE APPLICATION OF SACRAMENTO AND WOODLAND RAILROAD COMPANY FOR AN ORDER APPROVING CERTAIN NOTES ISSUED BY APPLICANT.

Application No. 1336.

Decided June 16, 1916.

Applicant authorized to issue two promissory notes of the aggregate face value of $45,000.00, such notes to be issued in lieu of two certain promissory notes heretofore issued without authorization.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission in Decision No. 1900 (Volume 5, Opinions and Orders of the Railroad Commission of California, page 656) authorized the applicant herein to issue certain promissory notes in lieu of other notes previously issued without authority of the Commission; and

Whereas applicant has now represented to the Commission that it has been unable to issue said notes by reason of the fact that it has been without funds to pay the fee prescribed by section 57 of the Public Utilities Act, as amended; and

Whereas applicant has now requested the Commission that it be granted authority to issue certain of said notes upon payment of the prescribed fee,

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It is hereby ordered that Sacramento and Woodland Railroad Company be and it is hereby authorized to issue its promissory notes as follows:

Payee	Amount	Interest	Term
First National Bank of San Francisco	$20,000 00	6%	Demand
First National Bank of San Francisco	25,000 00	7%	Demand

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The notes herein authorized to be issued shall be issued for the purpose of taking up and cancelling the following notes issued without authority of the Commission:

Payee	Date	Amount	Interest	Term
First National Bank of San Francisco	Sept. 12, 1913	$20,000 00	6%	*
First National Bank of San Francisco	Dec. 16, 1913	25,000 00	7%	†

*Discount at 110 days after date.
†Discount at 10 days after date.

2. Before issuing the notes herein authorized, applicant shall pay the fee prescribed by section 57 of the Public Utilities Act, as amended.

3. The authority herein granted shall apply only to such notes as are issued on or before January 1, 1917.

4. The authority herein granted to issue a portion of the notes hereinbefore authorized on payment of the fee applicable thereto is granted on the facts of this proceeding and is not to be taken as a precedent in other proceedings.

Dated at San Francisco, California, this 16th day of June, 1916.

DECISION No. 3434.

IN THE MATTER OF THE APPLICATION OF COLORADO RIVER TELEPHONE COMPANY FOR AUTHORITY TO PURCHASE, AND OF MRS. JESSIE BROWN FOR AUTHORITY TO SELL, A CERTAIN TELEPHONE LINE LOCATED IN RIVERSIDE COUNTY, CALIFORNIA.

Application No. 2162.

Decided June 17, 1916.

REPORT OF THE COMMISSION.

The applicant, Colorado River Telephone Company, having applied to this Commission for authority to construct and operate a telephone

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system in certain portions of Riverside County, California, Application No. 2031, and said application having been granted by the Commission upon condition that said applicant should purchase a certain telephone line heretofore constructed and in operation in and in the vicinity of the town of Blythe and Blythe Junction, Riverside County, under terms and conditions which shall be approved by this Commission, and said applicant, Colorado River Telephone Company, having with Mrs. Jessie Brown filed a joint application with this Commission for authority to complete the sale and transfer for the sum of $1,250.00, and it having been stipulated by the parties at the hearing in Application No. 2031 in the city of Riverside on February 29, 1916, that the testimony introduced at that hearing shall be considered in evidence in the within application (Application No. 2162), and no reasonable objection appearing,

It is hereby ordered that the application herein be and it is hereby granted, provided that the price to be paid for the sale and transfer of this telephone line shall not be taken by this Commission or other authority as representing the value of this property for rate making or other purposes.

Dated at San Francisco, California, this 17th day of June, 1916.

DECISION NO. 3435.

IN THE MATTER OF THE APPLICATION OF COLORADO RIVER TELEPHONE COMPANY FOR PERMISSION TO CONSTRUCT A TELEPHONE SYSTEM TO SELL STOCK AND ESTABLISH RATES.

Application No. 2031.

Decided June 17, 1916.

Applicant granted a certificate of public convenience and necessity permitting the construction of telephone systems in certain portions of Riverside County, it is also authorized to issue $17,478.00 par value of stock to be sold at not less than par, for such purposes. Proposed schedule of rates of applicant approved, provided that it shall submit to the Commission a detailed statement of revenues and expenses for one year, afterward, should it appear warranted, readjustments in such schedules will be made.

James O. Phillips, for Applicant.

Daly & Byrne, for Mrs. Jessie Brown.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by the Colorado River Telephone Company, a corporation, for authority to construct and operate a telephone

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system in certain portions of Riverside County, California, to establish rates and to sell stock. The territory which it is proposed to serve is described as lying in townships 1, 2, 3 and 4 south, range 20 east, townships 5, 6, 7 and 8 south, range 22 east, and townships 5, 6, 7 and 8 south, range 23 east, San Bernardino meridian and base, all in Riverside County.

A franchise to construct this system was granted by the board of supervisors of Riverside County on September 21, 1914, to Kamrar and Brown, president and secretary, respectively, of the applicant company. It is the desire of the applicant to establish a central office exchange in the town of Blythe and to extend its exchange service lines into the surrounding country. It is also desired to construct a toll line between the town of Blythe and Blythe Junction, a point located approximately forty miles north of the town of Blythe, on the Santa Fe Railroad.

The application was heard at Riverside on February 29, 1916. It developed at the hearing that there is already a telephone line, which is owned by Mrs. Jessie Brown, in operation between the town of Blythe and Blythe Junction, and that the applicant desires to construct and operate an additional line in competition with the existing line. An offer had been made to the owner of this line for its purchase by the applicant, but the amount which was offered was not satisfactory and objection was entered to the construction of a competing line. It was thereupon agreed that the applicant would tender a further offer for the purchase of the existing line and if the terms were satisfactory formal application would be filed with the Railroad Commission for authority to complete the sale. This has accordingly been done and the necessary application is now before the Commission.

It developed further at this hearing that the applicant was not prepared to present all of the information with reference to the proposed construction, to the sale of the stock and to the proposed method of operation of the system which was required by the Commission in considering the application, and further action by the Commission was deferred pending its filing, the applicant having been directed to provide a complete estimate of the proposed construction, together with its estimated cost, and a further statement as to the service which it desires to provide and the method of its application of the proposed rates. In presenting this information a supplemental or amended application has been filed and the application as amended will be considered by the Commission.

The estimate of construction which it will be necessary to provide to commence operation and the estimated cost of providing it, as shown by the amended application, represents a necessary initial expenditure of $17,478.71. To provide the necessary funds, the applicant desires

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to sell sufficient of its capital stock and proposes a schedule of rates as follows:

Business telephones, private line, wall sets, $3.25 per month.
Business telephones, private line, desk sets, 3.50 per month.
Residence telephones, private line, wall sets, 2.75 per month.
Residence telephones, private line, desk sets, 3.25 per month.
Residence telephones, party line, wall sets, 2.25 per month.
Residence telephones, party line, desk sets, 2.75 per month.
Ranch telephones, party line, wall sets, 2.00 per month.
Ranch telephones, party line, desk sets, 2.50 per month.
Switching charge for ranch telephones when ranchers build and maintain their own lines and furnish their own telephones, 50 cents per month for not less than five subscribers per line.

For private line service (one-party) it is proposed to extend lines not to exceed ¾ mile from the central exchange and for party line service not to exceed 2½ miles for not less than 5 or not to exceed 10 subscribers per line.

The proposed telephone toll and telegraph rates for service between the town of Blythe and Blythe Junction are as follows:

Day telephone toll rate, 35 cents for 2 minutes; 10 cents per minute for each additional minute or fraction thereof.
Night telephone toll rate, 20 cents for 2 minutes; 10 cents per minute for each additional minute or fraction thereof.
Day telegrams, 25 cents for 10 words; 3 cents per word for additional words.
Day letters, 35 cents for 50 words; 2 cents per word for additional words.
Night letters, 25 cents for 50 words; 2 cents per word for additional words.

So far as the estimated cost of the initial plant installation is concerned, while more complete detail than has been filed is desirable, the information which has been submitted will suffice for the purposes of this application. With reference to the sale of stock, applicant desires to sell to Kamrar and Brown, who are the promoters of the enterprise, 5,000 shares at 75 per cent of the par value, and sufficient additional stock at par value to make up the balance of the estimate, $17,478.00. The corporation is capitalized for $25,000.00, divided into 25,000 shares of the par value of $1.00 per share. Of this authorized capitalization, 8,000 shares of stock have been subscribed for, four of which are directors' stock and the balance evenly divided between Kamrar and Brown.

I am willing to recommend that the applicant be allowed to issue and sell 17,478 shares at full par value, but since the full amount of legitimate preliminary expense of organization has been included in the estimate of cost, above referred to, these gentlemen appear to be receiving full compensation and should not be permitted to issue stock to themselves on terms more favorable than are offered to other purchasers.

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As to the rates, if the applicant's estimate of the earning capacity of the proposed system proves to have been correctly made, it may be that the proposed rates are somewhat higher than they should be. It is possible at this time, however, only to estimate what the net earnings may be, and as the territory to be served is so far removed from the centers of population, being located in a remote section of the State, it may well be that rates somewhat higher than may be considered reasonable in more favored sections may be justified. For these reasons, and except that there appears to be no good reason for demanding rates for desk telephones for residence service and for ranch service in excess of the rates demanded for similar equipment for business service, I am willing to recommend that until sufficient time shall have elapsed to enable the Commission to determine what in this case may be reasonable rates the applicant be permitted to apply the rates which it proposes.

Except that a portion of the territory which the applicant desires to serve is already provided with telephone service, it appears that the public convenience and necessity will be subserved by the granting of this application, and since Mrs. Brown appears to be willing to transfer her interests to the applicant and has manifested this willingness by entering into a joint application with this applicant for permission to do so, I shall recommend approval of the application upon condition that the proposed sale and transfer is properly consummated.

Permission to issue and sell stock to the extent above referred to is recommended, however, only upon the condition that before any stock may be sold the applicant shall file statements, satisfactory to the Commission, setting forth the purposes for which the proceeds from the sale of stock are to be used.

ORDER.

Application having been filed with this Commission for authority to construct and operate a telephone system in certain territory within Riverside County, California, as more specifically set forth in the preceding opinion, to establish rates and to sell stock, and a hearing having been held, and it appearing that the public convenience and necessity will be subserved by the granting of this application,

It is hereby ordered that the applicant, Colorado River Telephone Company, be and it is hereby permitted to construct and operate a telephone system in certain portions of Riverside County, California, as hereinabove set forth, to establish rates and to issue and sell 17,478 shares of its capital stock, under the following conditions and not otherwise, to wit:

(*a*) Before the applicant may construct and operate a toll line for long distance telephone toll and telegraph purposes between the town

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of Blythe and Blythe Junction, it shall first purchase from Mrs. Jessie Brown all and several her interests in and to a certain telephone line heretofore constructed and in operation in and between the town of Blythe and Blythe Junction under terms and conditions which shall first be approved by this Commission.

(*b*) The rates which the applicant may charge and collect for service over its system shall, until the further order of the Commission, be as follows:

Business	telephines, private line, wall sets,	$3.25 per month.
Business	telephones, private line, desk sets,	3.50 per month.
Residence	telephones, private line, wall sets,	2.75 per month.
Residence	telephones, private line, desk sets,	3.00 per month.
Residence	telephones, party line, wall sets,	2.25 per month.
Residence	telephones, party line, desk sets,	2.50 per month.
Ranch	telephones, party line, wall sets,	2.00 per month.
Ranch	telephones, party line, desk sets,	2.25 per month.

Switching charge for ranch telephones when ranchers build and maintain their own lines and furnish their own telephones, 50 cents per month for not less than five subscribers per line.

The applicant shall extend its lines for private or one-party line service not to exceed a distance of ¾ mile from its central exchange and party lines not to exceed 2½ miles for not less than 5 or not to exceed 10 subscribers per line.

Day rate for telephone toll messages between Blythe and Blythe Junction, 35 cents for 2 minutes; 10 cents per minute for each additional minute or fraction thereof.

Night rate for telephone toll messages between Blythe and Blythe Junction, 20 cents for 2 minutes; 10 cents per minute for each additional minute or fraction thereof.

Day telegrams, 25 cents for 10 words; 3 cents per word for additional words.

Day letters, 35 cents for 50 words; 2 cents per word for additional words.

Night letters, 25 cents for 50 words; 2 cents per word for additional words.

Provided, that this permission is not to be taken as approval of the rates hereinabove provided for, since the Commission has not at this time passed upon their reasonableness; and provided further, that the applicant shall keep and submit to this Commission immediately following the establishment of service, separate, true and accurate accounts for a period of one year, setting forth in complete detail its revenues and operating expenses, whereupon the Commission may, if it so desires, establish such other rates as to it may seem necessary or advisable.

(*c*) The stock herein authorized to be issued may be issued under the following conditions only, to wit:

1. Before any stock may be issued and sold, the applicant shall submit statements satisfactory to the Commission setting forth in complete detail the purposes for which the proceeds from the sale of stock are to be used.

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2. Said stock shall be sold so as to net the Colorado River Telephone Company not less than full par value.

3. Colorado River Telephone Company shall keep separate, true and accurate accounts showing the receipts and application in detail of the proceeds derived from the sale of the stock herein authorized to be issued, and on or before the twenty-fifth day of each month shall make a verified report to the Commission, showing the sale and disposition of the stock herein authorized to be issued, the terms and conditions of such sale and the disposition of the proceeds derived therefrom, all in accordance with this Commission's General Order No. 24, which, in so far as applicable, is made a part of this order.

4. This order, in so far as it authorizes the sale of stock, shall apply only to stock issued on or before December 31, 1916.

(*d*) Colorado River Telephone Company shall, in not less than thirty days prior to the establishment of service, publish and file with this Commission its schedule of rates as hereinabove provided.

This opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 17th day of June, 1916.

DECISION NO. 3436.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR THEMSELVES AND ON BEHALF OF CARRIERS PARTIES TO TARIFF BUREAU, FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (*a*) OF THE PUBLIC UTILITIES ACT, RELATING TO INTERMEDIATE CLASS RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-A.

Decided June 19, 1916.

Higher rates to intermediate points forced by water competition or necessitated, owing to a circuitous route being forced to meet the shorter line haul of a more direct competitor serving the same territory, are warranted and their continuation permitted.

Water-compelled rates apply from Los Angeles and common points to San Francisco and common points, including points on Sacramento and San Joaquin rivers, with the exception of South Vallejo; these violations permitted to continue with the proviso that Southern Pacific Company discontinue the discrimination as regards South Vallejo, the latter being located on San Francisco Bay and accordingly affected by water competition the same as other towns similarly located and at present receiving the lower rate.

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Southern Pacific Company also directed to discontinue existing violations applying to intermediate points, San Francisco to Napa Junction, there being no justification for such violations at the present time; intermediate rates should not exceed the San Francisco to Napa Junction rate.

C. W. Durbrow, for Southern Pacific Company, Applicant.

Seth Mann, for Traffic Bureau of the Chamber of Commerce, San Francisco, California.

F. M. Hill, for Fresno Traffic Association, Fresno, California.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

In this case the Southern Pacific Company, for itself and on behalf of carriers parties to tariffs of the Pacific Freight Tariff Bureau, seeks authority to continue charging class rates as now published in its Local Freight Tariff No. 1, C. R. C. 1, Local Freight Tariff No. 711, C. R. C. 1515, and Joint and Proportional Tariff No. 707-D, C. R. C. 1906; also class rates via its lines published in Pacific Freight Tariff Bureau Tariffs Nos. 16-B, C. R. C. 101, 42-B, C. R. C. 105, 34-E, C. R. C. 110, and 31-B, C. R. C. 126, which are in violation of section 21, article XII of the Constitution of the State, and section 24 (*a*) of the Public Utilities Act.

The applications presented in this case were originally filed December 30, 1911, in compliance with an order promulgated by this Commission October 26, 1911. Prior to October 10, 1911, section 21 of article XII of the Constitution of this State forbade the charging of a greater compensation for a short haul than for a long haul, the short haul being included within the long. On that date this section of the Constitution was amended so that it now reads as follows:

> "No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this state. It shall be unlawful for any railroad or other transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates; provided, however, that upon application to the Railroad Commission provided for in this constitution such company may, in special cases, after investigation, be authorized by such commission to charge less for longer than for shorter distances for the transportation of persons or property and the Railroad Commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than for the shorter haul * * *."

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The long and short haul provision herein contained is, it will be noted, incorporated in the section generally preventing discrimination. The legislature submitting the amendment and the people adopting it, no doubt considered a lesser charge to a more distant point than to an intermediate point to be a discrimination against the intermediate point. Not all discriminations, however, are undue or unlawful. There may be cases where the apparent discrimination is merely a difference which is legitimately brought about by circumstances operative in one case that do not exist in another. Discrimination is a question of fact, and whether it be undue and illegal is also a question of fact and the Constitution and the Public Utilities Act (Sec. 24 [*a*]) have imposed upon this Commission the duty of determining these questions of facts. Acting within its authority, the ruling of this Commission in this regard is conclusive (Public Utilities Act, Sec. 67). Of course, it is not here intimated that under this power the Commission has authority to invade any rights which are conferred upon the carrier either by the Constitution of this State or the United States or to deprive it of its property without just compensation or due process of law.

While, therefore, the State is not compelled under any provision of the Constitution to accord to carriers the right to meet competition, yet it may do so as a matter of policy in proper cases, and that the people of this State have desired, as a matter of policy, to permit such procedure on the part of the carriers is evidenced by the language of section 21 of article XII of our Constitution, heretofore referred to, but they have left to this Commission the determination of the questions as to what are proper cases, and it is my view that in all cases where an advantage will accrue to the carrier and no substantial disadvantage to the public, that the carriers should be accorded the right, as a matter of policy, to meet competition over which they have no control.

Section 21 of article XII of the Constitution of the State of California contemplates that the Commission shall determine two things:

> *First*—the cases wherein discrimination may be permitted; and,
> *Second*—the extent of such discrimination.

I am aware of the great difficulties that surround the determination of this second question when concretely presented and strongly believe that reasonableness of any individual rate must to a certain extent be based upon the relationship which it bears to the entire body of rates of the character involved. I likewise believe that the traffic managers of carriers as to all rates, and particularly class rates, give little thought to the volume of any individual rate but rely upon a

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sufficiently high scale on the average to yield the returns which their company demands.

By reason of these great difficulties the Commission, in taking up the case which we are now considering, determined that it would decide but one of the questions involved, namely, at what points, if any, are conditions such as would warrant the carriers, without injustice to the intermediate points, meeting competition, provided the rate which it is required to meet is not so low that by meeting it, tribute would be levied upon other traffic. If on subsequent complaint and investigation it should develop that by meeting the competition other traffic will be burdened, such further adjustment will be made as may be deemed necessary. In other words, for the present, we will permit the continuance of the discrimination as we find it at such points, merely as a working arrangement subject at any time either on complaint or the Commission's initiative, to further consideration. And likewise the character and reasonableness of the intermediate rate is similarly open to inquiry.

Desiring to get the long and short haul question definitely before it, the Commission on the 16th day of October, 1911, entered an order wherein it required the various carriers to file applications with the Commission for the relief permitted under the Constitution. A number of hearings were held in San Francisco, and the carriers and the shipping public given full opportunity to present their views in connection with the rates. As a result of the hearings and investigations the Commission issued an order February 15, 1912, authorizing carriers to continue in effect rates in violation of the Constitution until such time as the Commission reached a final conclusion in each individual case.

A situation perhaps unlike any other ever presented to this Commission is before us at this time for consideration. At the beginning it may be as well to announce that this decision is largely based upon expediency. If I were, at this time, considering the questions involved herein *ab initio* it might well be that the decision would be different, but I am considering and passing upon the expediency of continuing a situation with respect to traffic conditions which is the result of endeavors upon the part of carriers to meet changed conditions in their own interest as well as the sometimes divergent views of shippers. There have been numerous decisions of commissions, such decisions in some instances being sustained by the courts, that conditions which have grown up in this way as the result of a system of rate making which perhaps would not be justifiable if for the first time put into

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effect now, should not be disturbed, particularly where such disturbance would result in increased rates to shippers and only benefit the carriers, something which the carriers are not asking or seeking.

The rate from San Francisco to Los Angeles and in the opposite direction is admittedly a water-compelled rate. The granting of a like rate to towns located on San Francisco Bay is easily justified. It is not so easy to justify the granting of the same rate to and from Marysville, Sacramento and other similarly located points and the giving to these points not on San Francisco Bay the same rates as from San Francisco is, I believe, only justifiable on the ground of expediency. Such a condition has existed for many years. No one, as before stated, would be benefited by disturbing it except the carriers and they do not ask that the present conditions be disturbed.

For the present, therefore, I am going to recommend the applications of carriers to continue present violations of the long and short haul clause of the Constitution and of the Public Utilities Act except as hereinafter noted, realizing that the right remains to again consider and pass upon the violations when specific complaints are filed and testimony supporting such complaints is offered.

In justification of the violations in class rates petitioner presented to the Commission ten exhibits explanatory of the situations as they exist in the tariffs to which reference is made.

Exhibit No. 1, page 1, covers the general situation between northern and southern California wherein the class rates between San Francisco, San Jose, Port Costa, Stockton, Sacramento, Marysville and intermediate points on the one hand, and Los Angeles and points south thereof, including Sentous, San Pedro, Whittier, Newport Beach and Los Alamitos on the other, are lower than the class rates to intermediate points via both the "valley" and "coast" routes.

Low class rates are:

60 48½ 42½ 37½ 27½ 30 30 27½ 27½ 25

Exhibit No. 1, page 2, covers low class rates between South Vallejo on the one hand and on the other the same points in southern California as shown above for page 1.

Class rates are:

70 57½ 44½ 33½ 36 36 33½ 33 30

Exhibit No. 1, pages 3, 4 and 5, are explanatory of the rates being assessed by competing water carriers.

Exhibit No. 1, page 6, covers low joint class rates published in Pacific Freight Tariff Bureau Tariff C. R. C. No. 110, between Marysville on Northern Electric Railway via Sacramento; Oakland and Sacramento on Oakland, Antioch and Eastern Railway via Bay Point or McAvoy;

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and Fruitvale, Niles, Oakland, Sacramento and Marysville on Western Pacific Railway via Stockton on the one hand and Los Angeles and points in southern California on the other, the low class rates being the 60 cent scale shown above for page 1 of this exhibit.

Exhibit No. 1, page 7, covers low joint class rates between San Francisco, Oakland, San Jose, Stockton, Sacramento, Marysville, San Ramon and points taking Group 1 rates shown in Pacific Freight Tariff Bureau Tariff C. R. C. No. 126, on the one hand, and Culver City, Santa Monica Canyon and points between on Pacific Electric Railway on the other, the low class rates being the 60 cent scale shown herein for page 1 of this exhibit.

Following is an example of the higher class rates at intermediate points in the four (4) situations set forth above, covered by pages 1, 2, 6 and 7 of Exhibit No. 1. The class rates via applicant's line between San Francisco and Los Angeles, a distance of 469 miles, is on a 60 cent scale.

The high intermediate point from San Francisco via the San Joaquin Valley route is Acton, 415 miles from San Francisco, where progression of the scale makes following class rates:

83 71 58 52 46½ 48 33 26 23 19

High intermediate point from San Francisco via coast line is Simi, 429 miles—class rates:

80 68½ 61½ 54½ 42½ 46 42 39 33½ 33½

The high intermediate point from South Vallejo to Los Angeles is Russ—class rates are:

94 81 68 61 50½ 53 41 32½ 29 25

The situation as to the high intermediate rates from Marysville, Sacramento, Niles and other points shown on pages 6 and 7, is practically the same as shown for pages 1 and 2. It will therefore not be necessary to set forth the actual rates in each instance.

In justification of the maintenance of lower class rates between San Francisco and Los Angeles and other points set forth in Exhibit No. 1, than to intermediate points, it is shown that these rates are influenced and controlled by the rates made by the Pacific Coast Steamship Company, North Pacific Steamship Company, Pacific Navigation Company and various other steamship lines and their rail line connections operating between San Francisco and points in southern California through Port San Pedro.

The class rates of the Pacific Coast Steamship Company between San Francisco and San Pedro are as follows:

38 28 23 20 12½ 15 15 14½ 14½ 11½

(Does not include wharfage and handling.)

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The through joint class rates via rail and water, including wharfage and handling, between San Francisco and Los Angeles via Pacific Coast Steamship Company and its rail line connections are:

52 41 35 30 19½ 22 22 20½ 20½ 17

Rates via other steamship lines in this service are practically the same.

There can be no doubt from the evidence submitted that the water competition between San Francisco and San Pedro is both active and controlling and that the rail rates between the ports and points contiguous thereto have been established on a lower scale than they would otherwise have been were it not for the effect of this water competition.

Since, however, applicant has established this low 60 cent scale of class rates between San Francisco and Los Angeles and points contiguous thereto and has extended these rates to include such points as Lincoln, Wheatland and Marysville on the north, and has given the existence of water competition at Marysville on the Sacramento River as justification for the extension of this low scale of class rates to include Lincoln, Wheatland and Marysville, the Commission can not approve the method used by applicant in making class rates between South Vallejo and Napa on the one hand, and Los Angeles and points contiguous thereto on the other, as shown by Exhibit No. 1, for the reason that actual water competition certainly exists to a greater degree at South Vallejo and Napa than it does at Lincoln, Wheatland and Marysville, and, in my opinion, such discrimination should be removed. In other respects application covered by Exhibit No. 1 will be granted.

Exhibit No. 2 covers the violations existing in the class rates between San Francisco, San Jose, Stockton, Sacramento, Marysville, Salinas and intermediate points on the one hand and San Luis Obispo, Santa Barbara, Ventura, Oxnard and points between on the other, via both valley and coast lines, also between the same points in northern California and Barsug, Bargur, Iremel and Betteravia—stations located on Santa Maria Valley Railroad.

The low class rates between San Francisco and San Luis Obispo, 248 miles, are blanketed to Oxnard, 404 miles from San Francisco, because of water competition, and are as follows:

60 48½ 42½ 37½ 27½ 30 30 27½ 25 25

High intermediate point from San Francisco is Nacimiento, 197 miles, where progression of the scale makes the following:

60 55 50 45 37 35 30 30 25 25

Low class rates between San Francisco and Betteravia, 227 miles, a point located on Santa Maria Valley Railroad and Pacific Coast Railway:

62 50½ 44½ 40½ 29½ 32 31 28½ 26 26

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Nacimiento, shown next above, is also the high intermediate point, San Francisco to Betteravia.

Exhibit No. 2 also covers low scale of class rates between South Vallejo and San Luis Obispo, Santa Barbara, Ventura, Oxnard and points between. Low scale:

70 57½ 50½ 44½ 33½ 36 36 33½ 30½ 30

High intermediate point from Santa Barbara is Wunpost. Rates are:

84 70½ 62½ 55½ 43½ 46 44½ 41 36½ 36½

Low scale between South Vallejo and Betteravia:

72 59½ 52½ 47½ 35½ 38 37 34½ 31½ 31

High rate at intermediate point is between Crockett and Wellsona; rates:

69 62 56½ 50½ 39½ 39 34 34 28½ 28½

In defense of the lower class rates between San Francisco and San Luis Obispo, Santa Barbara, Betteravia and other points set forth in Exhibit No. 2, than are charged to intermediate points, it is shown that there is water and rail and water competition between the points involved, via which routes lower rates are maintained. For example:

The joint class rates between San Francisco and San Luis Obispo via Pacific Coast Steamship Company and Pacific Coast Railway through Port San Luis are:

52 41 35 30 22½ 25 25 22½ 20 20

The class rates of the Pacific Coast Steamship Company and North Pacific Coast Steamship Co., between San Francisco and Santa Barbara are:

42½ 32½ 27½ 22½ 17½ 20 20 17½ 15 15

The joint class rates between San Francisco and Betteravia via Pacific Coast Steamship Company and Pacific Coast Railway through Port San Luis are:

55 44 38 34 25 28 28 24 23 22

From these comparisons it will readily be seen that there is actual water competition sufficient to influence and control the rates between the points between which the low rates are maintained. However, this is another instance wherein applicant has not been consistent in adjusting the "blanket," as the same discrimination exists in Exhibit No. 2 as in Exhibit No. 1, the blanket 60 cent scale in one instance and 62 cents in the other having been extended to include Lincoln, Wheatland and Marysville, while rates from South Vallejo and Napa are on a much higher basis.

It is noted in applicant's justification for violations shown in its Exhibit No. 5 that the location of South Vallejo on the San Francisco

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Bay is given as its reason for applying same rates from South Vallejo to Fresno and Bakersfield as from San Francisco and Port Costa, and I see no valid reason why this basis should not hold in the situations shown in Exhibits Nos. 1 and 2.

Application covered by Exhibit No. 2 will be granted with the understanding that the discriminations referred to will be removed.

Exhibit No. 3 is explanatory of violations existing in the class rates between San Francisco, Oakland and Richmond, on the one hand, and Stockton on the other. This exhibit also covers violations to and from South Vallejo and Port Costa, viz:

A—Lower class rates are maintained between San Francisco, Oakland and Richmond and Stockton than between intermediate points.

Distance San Francisco to Stockton 91 miles—low scale is as follows:

10 10 9 9 7 7 6 5¾ 5½ 5¼

High intermediate point is between San Francisco and Banta, distance 74 miles. Rates:

17 15 14 12 11 11 8 8 7¾ 6

B—Lower class rates are maintained between South Vallejo and Tracy than between intermediate points. Distance South Vallejo to Tracy 89 miles. Low scale:

16 14 13 11 10 10 8 7¾ 7½ 7¼

High intermediate point is between South Vallejo and Newlove, 62 miles. Rates:

17 15 13 12 10 10 10 10 9 9

C—Lower class rates are maintained between South Vallejo and Stockton, 109 miles, than between intermediate points. Low scale:

18 16 14 12 11 11 8 7 6 5

High intermediate point is between Stockton and Subeet, 91 miles. Rates:

26 24 21 19 17 17 14½ 12 11 11

D—Lower class rates are maintained between South Vallejo and Antioch, 60 miles, than between intermediate points. Low scale:

16 14 13 12 10 10 10 10 9 9

High intermediate point is between Antioch and Suisun, 40 miles; rates are as follows:

21 18 16 13 11 11 11 10½ 9½ 9½

E—Lower class rates are maintained between South Vallejo and Port Costa, 38 miles, than between intermediate points. Low scale:

10 9 8 7 6 6 6 6 5½ 5½

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High intermediate point is between Suisun and Port Costa, 17 miles. Rates as follows:

11 10 9 7 6 6 6 6 5½ 5½

This exhibit also covers violations between San Francisco, Port Costa, South Vallejo, etc., on the one hand and stations north of Stockton on the other. For example:

Lower class rates are maintained between San Francisco and Lodi, 103 miles, than between intermediate points. Low scale:

17 16 14 12 11 11 9 8¼ 8 6½

High intermediate point is between Crockett and Lodi, 86 miles, Rates as follows:

19 17 16 14 11 11 10 9 8½ 8½

Numerous showings are made in this exhibit covering situations north of Stockton exactly similar to that shown next above for Lodi, such violations extending to practically all stations Stockton to Florin, inclusive, main line and branches. It will not be necessary to here set out each point, the Lodi situation being illustrative.

In defense of the low rates maintained between San Francisco and Stockton and between other points shown in Exhibit No. 3, where lower rates are charged than to intermediate points, applicant refers to the fact that its low scale of rates between San Francisco and Stockton is the same as the rates published by the California Transportation Company and the California Navigation and Improvement Company, both of which companies operate a line of boats between San Francisco and Stockton and intermediate landings.

It is found that competition by boat lines operating on San Francisco Bay, Sacramento and San Joaquin rivers and waters adjacent thereto, is sufficient to influence and control the rates in the territory involved and is reflected to points contiguous to Stockton, and I am of the opinion that under the circumstances the discrimination against the intermediate points is not unreasonable and that carrier should be authorized to continue the low rates to the more distant point and the present higher rates to intermediate points.

Application covered by Exhibit No. 3 will therefore be granted.

Exhibit No. 4 is explanatory of the violations existing in the class rates between San Jose, San Francisco and Oakland on the one hand and South Vallejo, Napa, West Napa, Merazo and intermediate points on the other; also between South Vallejo and Flosden on the one hand and Port Costa and Crockett on the other; rates to intermediate points being higher.

The following low class rates are maintained between San Francisco and Napa, 70 miles:

13 9 8 7 6 6 6 6 5½ 5½

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High intermediate point is between San Francisco and Hoyt, 39 miles. Rates are:

14 12 10 9 8 8 8 7½ 7 7

Low class rates between Crockett and Flosden, 35 miles, are:

10 9 8 7 6 6 6 6 5½ 5½

High intermediate point is between Crockett and Cygnus, 13 miles. Rates are:

14 12 10 9 8 8 8 7½ 7 7

In defense of the maintenance of lower class rates between San Francisco and Napa and between Crockett and Flosden than to intermediate points, applicant contends that the low rates are influenced and controlled by the rates made by the various boat lines operating on San Francisco Bay and navigable rivers tributary thereto.

Since application covered by Exhibit No. 4 was filed the Commission has authorized the Southern Pacific Company to adjust its class rates between San Francisco and Napa and Napa Junction, which adjustment brings about both increases and decreases, the following scale of rates having been authorized:

Between San Francisco and Napa Junction	13½	12	10	9	8	8	8	6	5	5
Napa	15	13	11	10	9	9	8	7	6	5

With this adjustment I am of the opinion that the violations at the intermediate points should be removed.

I do not find that there is a boat line operating between Crockett and Vallejo or that there is sufficient water competition between these points to justify the present violations between Crockett and Flosden. The class rates between points that are intermediate San Francisco to Napa Junction should in no case exceed the San Francisco–Napa Junction rates shown above.

Application covered by Exhibit No. 4 will therefore be denied.

Exhibit No. 5 covers violations in class rates between South Vallejo and Fresno, Bakersfield and intermediate points in San Joaquin Valley, rates to and from Suisun and points intermediate to Benicia being higher.

Following low class rates are maintained between South Vallejo, Port Costa and Benicia on the one hand and Bakersfield (319 miles from South Vallejo) on the other:

72 62 51 46 42 42 29 23 20 16

High intermediate point is between Suisun and Bakersfield, 299 miles, where class rates are:

83 72 60 53 48 48 35 29 25½ 21½

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In justification of these violations it is shown that South Vallejo, because of its location on San Francisco Bay, is grouped with San Francisco, Port Costa and Benicia and therefore South Vallejo rates should not apply as maximum through Suisun.

Application covered by Exhibit No. 5 will be granted.

Exhibit No. 6 covers violations in class rates between Tulare and Visalia, both points being located in San Joaquin Valley and are served by the Atchison, Topeka and Santa Fe Railway as well as by the line of applicant.

Low class rates between Tulare and Visalia, 18 miles:

7 6 6 5 5 5 3 3 2¾ 2¼

High point intermediate rates are between Tulare and Jacobs Spur, 15 miles, rates being as follows:

9 8 7 6 6 6 4 4 3½ 3½

The reason set forth by applicant for the maintenance of lower rates between Tulare and Visalia than to intermediate points is the fact that mileage between these points via the line of its competitor, the Atchison, Topeka and Santa Fe Railway, is but 10 miles, against 18 miles via Southern Pacific Company. Low rates published by applicant are the same as rates published by the Atchison, Topeka and Santa Fe Railway and are necessary to meet the short line competition. Inasmuch as the mileage via line of applicant, between the points involved, is 180 per cent of the mileage via the short line this application will be granted.

Exhibit No. 7 is explanatory of the violations in class rates published in Pacific Freight Tariff Bureau No. 34-E, C. R. C. No. 110, wherein joint rates are published between Sacramento and Lathrop, French Camp, Hislop, etc., via Oakland, Antioch and Eastern Railway to Bay Point, thence Southern Pacific Company, which are lower than rates to intermediate points. As an example of this situation, the low class rates maintained by applicant between Sacramento and French Camp, via above route, a distance of 103 miles, are as follows:

16 14 11 10 9 9 8 7 6½ 6

High intermediate point is between Sacramento and Bay Point, a distance of 54 miles, where rates are:

23 21 18 15 13 13 12 10 9½ 9½

In defense of the maintenance of lower class rates between Sacramento and French Camp, and other points shown in exhibit, than to intermediate points, a showing is made of the fact that the distance between Sacramento and French Camp via the Western Pacific Railway is 50 miles and via Southern Pacific Company's direct line is 54 miles. Mileage via route over which joint rates apply is approximately

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200 per cent of the mileage via the short lines. For this reason application covered by Exhibit No. 7 will be granted.

Exhibit No. 8 covers transshipment class rates from San Francisco to Los Angeles published in Pacific Freight Tariff Bureau Tariff No. 42-B, C. R. C. No. 105, same being applicable only on business received from water craft at San Francisco, the most of which moves to and from interstate and foreign points. The same violations exist as shown between same points in Exhibit No. 1 and like defense is offered. This application covered by Exhibit No. 8 will therefore be granted.

Exhibit No. 9 covers violations in proportional class rates between Sacramento and Shellville Junction published in Pacific Freight Tariff Bureau Tariff C. R. C. No. 101. This application has been withdrawn and tariff will be amended removing the violations.

Exhibit No. 10 covers violation in proportional basing class rates between San Francisco, Oakland and Oakland Wharf and Tiburon published in Pacific Freight Tariff Bureau Tariff C. R. C. No. 101. These proportional class rates are used only to make through rates on traffic to or from points on Northwestern Pacific Railroad beyond Tiburon and rates so made are applicable via Shellville Junction in connection with applicant's line and are lower than local rates between intermediate points.

Distance between San Francisco, Oakland and Oakland Wharf and Tiburon via barge service is approximately 6½ miles. San Francisco to Shellville Junction via Suisun is 73 miles. Low proportional class rates are as follows:

6 6 6 5 5 5 5 5 5 5

High intermediate point is between Cordelia and Shellville Junction, 19 miles; rates are:

17 12 11 9 8 8 8 6 5½ 5

Justification given for the maintenance of lower class rates between San Francisco, Oakland and Oakland Wharf and Tiburon than to intermediate points, via Shellville Junction, is the fact that barge service is maintained by the Northwestern Pacific Railroad between San Francisco and Tiburon, and by the Atchison, Topeka and Santa Fe Railway between Richmond and Tiburon at same rates and for same purpose as the low scale shown above, also the further fact that for operating convenience practically all the business interchanged by applicant's line with the Northwestern Pacific Railroad is actually handled through Shellville Junction.

Application covered by Exhibit No. 10 will therefore be granted.

Several of the exhibits contain a note to the following effect: This adjustment of non-intermediate rates is reflected at points beyond point

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of origin or destination, at points between point of origin or destination or at branch line points, by combination on some one or other of the low rates from or to points shown or on a progression of same. Such combinations and progressions are sometimes published in or made by use of other tariffs than the one containing the low rates.

An example illustrating this situation is set forth below:

Miles	Between—	and—	1	2	3	4	5	A	B	C	D	E
4	Berg*	Marysville	5	5	5	4	4	4	3	2¾	2½	2¼
493	Marysville	Los Angeles	60	48½	42½	37½	27½	30	30	27½	27½	25
497	Berg	Los Angeles	65	53¼	47¼	41½	31½	34	33	30¼	30	27¼
465	Berg	Saugus†	82	69½	61½	53½	42½	45	41	35¾	33½	29¾

*Four miles north of Marysville.
†Intermediate to Los Angeles.

This practice is entirely justifiable and the granting of petitions containing such violations carries with it the authority to continue the application of such rates.

In view of all of the facts and circumstances appearing, as hereinbefore set forth, and except as hereinbefore provided, these applications will be granted, until it may be otherwise ordered upon future investigation in particular cases, and applicant will be permitted to continue to charge lower class rates between the short line and water competitive points and to maintain higher rates to intermediate points as published at the present time in its tariffs.

I therefore submit the following form of order:

ORDER.

The Southern Pacific Company having applied to this Commission for an order granting relief from the provisions of section 21 of article XII of the Constitution of California and for authority to continue intermediate class rates higher than the class rates between more distant points, as set forth in the exhibits and tariffs referred to in the opinion which precedes this order, and a hearing having been held and the Commission being fully apprised in the premises, and basing its conclusions on the findings of fact set forth in said opinion,

It is hereby ordered that the Southern Pacific Company and its connections, such connections arising from membership in the Pacific Freight Tariff Bureau, be and they are hereby authorized to continue class rates as set forth in the applications and exhibits referred to in said opinion and maintain higher rates at intermediate points, except that the discrimination in rates to and from South Vallejo and Napa referred to in Exhibits Nos. 1 and 2 be removed and application covered by Exhibit No. 4 be denied; provided that this authorization shall not be construed to pass on the reasonableness of the intermediate

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rates or any other matter except the application of the long and short haul clause of the State Constitution and the Public Utilities Act.

It is further ordered that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals.

All the rates herein authorized are, of course, subject to complaint, investigation and correction if in conflict with any provision of the Constitution or of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

DECISION NO. 3437.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (C. L.) FOR THEMSELVES AND ON BEHALF OF CARRIERS PARTIES TO TARIFFS OF THE PACIFIC FREIGHT TARIFF BUREAU FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (*a*) OF THE PUBLIC UTILITIES ACT, RELATING TO INTERMEDIATE CLASS RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-B.

Decided June 19, 1916.

Existing violations intermediate points San Francisco to Los Angeles justified account direct water competition, as are also violations in effect Oakland to Stockton; permission to continue same in effect granted.

Higher intermediate rates necessitated by a circuitous route meeting the rates of a more direct competitor serving the same territory considered justified and their continuation permitted.

Permission herein granted to continue violations mentioned not to be taken as conclusive that such rates are just and reasonable; they are, as heretofore, subject to complaint, investigation and correction in accordance with the provisions of the Public Utilities Act.

C. H. Baker, for The Atchison, Topeka and Santa Fe Railway Company, Applicant.

Seth Mann, for Traffic Bureau of the Chamber of Commerce, San Francisco, California.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

The Atchison, Topeka and Santa Fe Railway Company (C. L.) in compliance with the orders of this Commission filed its applications for

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authority to continue all class rates which are in violation of section 21, article XII, of the Constitution, and section 24 (*a*) of the Public Utilities Act. These class rates are now published in applicant's Local Freight Tariff No. 9885-B, C. R. C. No. 322, and Tariff No. 11569-A, C. R. C. No. 241. Applications were also made to continue the class rates now published in Pacific Freight Tariff Bureau Tariffs Nos. 42-B, 34-E and 30-B, C. R. C. Nos. 105, 110 and 111, applying in connection with The Atchison Topeka and Santa Fe Railway Company (C. L.).

This proceeding is a continuation of the Commission's investigation into all violations of the long and short haul provisions of the Constitution of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions it will not be necessary to here repeat the details.

Sixteen exhibits explanatory of the various violations as they exist in the tariffs were entered at the different hearings.

Exhibit No. 1 covers the situation between northern and southern California wherein the class rates between San Francisco, Oakland and Burnham and intermediate points on the one hand, and Los Angeles, Redondo Beach, Aliso and Olive and intermediate points on the other, are lower than the class rates to intermediate points via both Pasadena and Corona. For example, the distance San Francisco to Los Angeles is 593 miles with the following low scale of class rates:

Between—	and—	1	2	3	4	5	A	B	C	D	E
San Francisco to Burnham, inc. Oakland	Los Angeles, Redondo Beach, Aliso, inc. Olive	60	48½	42½	37½	27½	30	30	27½	27½	*25

*Class E, between Los Angeles and Burnham and Stockton, 22 cents; Orwood, 23 cents; Oakley, 24 cents, grades into 25 cents at Sando.

High intermediate rates from San Francisco are as follows:

Miles											
464	Hicks	121	106	89	78	64	64	52	44	41	35
469	Wild	125	103½	88½	78½	62½	66	55	47	44	36
473	Helen	124	102½	87½	77½	61½	67	55	46½	43½	37

In justification of the maintenance of the low scale of class rates set forth above a showing is made that these rates are influenced and controlled by the rates established by the Pacific Coast Steamship Company, Independent Steamship Company and various other boat lines and their rail connections operating between San Francisco and Southern California points through Port San Pedro. This low scale of rates is

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the same as is published by the Southern Pacific Company between San Francisco and Los Angeles and common and opposite points on that line.

The through joint class rates via rail and water, including wharfage and handling, between San Francisco and Los Angeles, via Pacific Coast Steamship Company and its rail connections, are:

52 41 35 30 19½ 22 22 20½ 20½ 17

Since actual water competition influences and controls the rates between San Francisco and Los Angeles and is reflected to points contiguous to both San Francisco and Los Angeles, application covered by Exhibit No. 1 will be granted.

Exhibit No. 2 covers violations existing in class rates between points San Francisco to Burnham, inclusive, on the one hand, and Ladrillo, San Diego to National City, inclusive, on the other. Distance, San Francisco to National City, 682 miles.

Low scale of rates:

60 48½ 42½ 37½ 27½ 30 30 27½ 27½ 25

Rates to high intermediate points south of Los Angeles from San Francisco are:

Miles										
608	Serra	79½	65½	58½	52½	40½	43	41½	38	38	31½
612	Mateo	77½	64½	57½	50½	42	44½	41½	37	37	31½

High intermediate points north of Los Angeles are Hicks, Wild and Helen, to which points rates are set forth under explanation of Exhibit No. 1.

It is shown in justification of the low scale of rates between San Francisco and San Diego that the Pacific Coast Steamship Company and the Pacific Navigation Company maintain direct service between these two points and publish the following scale of rates:

42½ 32½ 27½ 22½ 17½ 20 20 17½ 17½ 15

A satisfactory showing is made that actual water competition exists sufficient to influence and control the rates between San Francisco and San Diego and that these rates are reflected to points contiguous to San Diego. Application covered by Exhibit No. 2 will therefore be granted.

Exhibit No. 3 is explanatory of violations in class rates published in Pacific Freight Tariff Bureau Tariff No. 30-B, C. R. C. No. 111, between San Francisco, Oakland to Burnham, inclusive, on the one hand, and East San Pedro and East Wilmington via Los Angeles and the San Pedro, Los Angeles and Salt Lake Railroad; Wilmington and San Pedro via Los Angeles and the Southern Pacific Company; Santa Monica, Ocean Park and Venice via Los Angeles and the Pacific Electric Railway, and points intermediate to Los Angeles on the other hand. From

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San Francisco to San Pedro the distance is 620 miles and the low scale of rates is:

60 48½ 42½ 37½ 27½ 30 30 27½ 27½ 25

Northbound high intermediate rates are those between San Pedro and Sharon, 448 miles:

90 74½ 65 57 46½ 49 36 27 24 19½

Southbound the high intermediate points from San Francisco are Hicks, Wild and Helen, to which points rates are set forth under explanation of Exhibit No. 1.

This is the same situation as covered by Exhibit No. 1 and the application will therefore be granted.

Exhibit No. 4 covers two entirely different situations, the low scale of rates in each instance being published in Pacific Freight Tariff Bureau Tariff No. 34-E, C. R. C. No. 110, and are the joint rates of applicant in connection with Central California Traction Company, Oakland, Antioch and Eastern Railway and Western Pacific Railway.

1—The class rates between Oakland, Sacramento and Marysville and points intermediate, on the one hand, and Los Angeles, Redondo Beach and Santa Ana and points intermediate, on the other. The distance Marysville to Los Angeles is 600 miles and the low scale of rates is:

60 48½ 42½ 37½ 27½ 30 30 27½ 27½ 25

High intermediate point from Marysville is Barstow, 460 miles, and the rates are:

138 122 101 88 74 74 59 48 44 38

The low scale shown above is the same as the rates published by the Southern Pacific Company between same points. Distance via Southern Pacific Company, Marysville to Los Angeles, is 439 miles.

Justification for this low scale of rates is the water competition between San Francisco and San Pedro which is reflected to points contiguous to both San Franicisco and Los Angeles, and the further fact that its mileage exceeds that of its competitor, the Southern Pacific Company, by more than 120 per cent. Such reasons being deemed satisfactory, application will be granted.

2—This covers joint class rates between Sacramento on the Oakland, Antioch and Eastern Railway, and stations on applicant's line south of Stockton, via Bay Point. For example, the distance from Sacramento to Empire via Oakland, Antioch and Eastern Railway and Bay Point, is 129 miles, with the following low scale of rates:

20 18 16 14 13 13 10 10 9 9

High intermediate rates are from Bay Point to Empire, 74 miles, viz:

25 22 20 17 15 15 11 9 8 6

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In justification of these violations applicant shows that the mileage via Oakland, Antioch and Eastern Railway to Bay Point, thence Atchison, Topeka and Santa Fe Railway to Stockton is 97 miles, while the distance between the same points via direct line of Western Pacific Railway is only 45 miles. Since the mileage via the circuitous route is 215 per cent of the mileage via the short line this application will be granted.

Exhibit No. 5 covers trans-shipment class rates published in Pacific Freight Tariff Bureau Tariff No. 42-B, C. R. C. No. 105, between San Francisco and Los Angeles, also Anaheim and Olive and intermediate points; same being applicable only on shipments received from water craft at San Francisco.

The violations are between the same points shown in Exhibit No. 1 and the same defense is offered. This application will therefore be granted.

Exhibit No. 6 covers violation in class rates between Los Angeles and Mohave, distance 212 miles. Low scale of rates is:

52	44	36	33	30	30	21	16	13	10

High intermediate point is Kramer, distant 174 miles from Los Angeles, where progressive scale makes following rates:

78	68	56	50	44	44	33	28	23	19

In justification of this violation it is shown that the distance via Southern Pacific Company, Los Angeles to Mojave, is 101 miles, and the low scale of rates shown above is the same as the rates published by that company. As the mileage via applicant's circuitous line is more than 200 per cent of that of its competitor, this application will be granted.

Exhibit No. 7 covers violations in class rates between Los Angeles and Johannesburg, distance 203 miles. Low scale of rates is:

77	68	63	56	49	49	28	24	19	16

High intermediate rates from Los Angeles are:

Miles											
188	Fremont ------	86	75	63	56	49	49	33	29	24	19
196	St. Elmo ------	82	73	68	61	53	53	33	29	24	20

A similar situation exists in class rates between Redondo Beach and Johannesburg. In explanation of this situation it is shown that practically all shipments billed to Johannesburg are teamed to Randsburg, the final destination. The opposite station on Southern Pacific Company's line is Searles, 150 miles from Los Angeles, to which point that company maintains the same scale. Here we have another instance of the circuitous line meeting the short line competition. This application will therefore be granted.

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Exhibit No. 8 covers violations in joint class rates published in Pacific Freight Tariff Bureau Tariff No. 30-B, C. R. C. No. 111, between stations on applicant's line and stations on the Southern Pacific Company and on the San Pedro, Los Angeles and Salt Lake Railroad. A low scale of class rates is published between San Pedro, Wilmington, East San Pedro and East Wilmington on the one hand, and Mojave and Johannesburg on the other, rates to intermediate points being higher.

These situations are exactly the same as those set forth in Exhibits Nos. 6 and 7, and same justification is offered, namely, applicant's circuitous line is meeting the rates made by its short line competitor, the Southern Pacific Company. Applications covered by Exhibit No. 8 will therefore be granted.

Exhibits Nos. 9 and 10 cover violations existing in class rates between Los Angeles, on the one hand, and Exeter and Lindsay, on the other, and also between various other points located in San Joaquin Valley, such as between Exeter and Hanford and between Tulare and Lindsay. These violations are numerous and are brought about by the publication of rates by applicant between common points and points that are opposite on the Southern Pacific, equal to the Southern Pacific Company's rates via the shorter mileage. It will not be necessary to show each of these violations, a few examples being illustrative of the situation.

1—Low scale of rates between Los Angeles and Lindsay:

70 60 49 44 40 40 28 21 18 14

Distance via applicant's line is 411 miles, while via the Southern Pacific Company the distance is but 235 miles.

High intermediate point is between Los Angeles and Kramer, 174 miles. The rates are:

78 66 56 50 44 44 33 28 23 19

In this instance distance via applicant's line is 174 per cent of the distance via line of its competitor.

2—Low scale of rates between Exeter and Hanford is:

15 13 12 10 9 9 6 5 5 4

Rates to intermediate points are higher.

Distance via applicant's line is 75 miles, while via Southern Pacific Company distance is but 31 miles. In this instance distance via applicant's line is 242 per cent of distance via line of its competitor.

This situation is true of each showing made in Exhibits Nos. 9 and 10, it being necessary for the applicant to meet the competition of its short line competitor at the more distant point. Applications covered by Exhibits Nos. 9 and 10 will therefore be granted.

Exhibit No. 11 covers violations in joint class rates published in Pacific Freight Tariff Bureau Tariff No. 30-B, C. R. C. 111, applying

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between Oil Junction on the Southern Pacific line, and Wasco, Angiola, Tulare and points north thereof located on applicant's line, via Bakersfield, for example:

Distance Oil Junction to Tulare is 82 miles. Low scale:

21 18 16 14 13 13 8 7 6 5

High intermediate point is from Bakersfield to Tulare, distance 78 miles. Rates are:

25 21 19 16 15 15 10 8 7 6

Distance between Oil Junction and Tulare direct via Southern Pacific Company is 59 miles. Distance via applicant's line between the points involved varies from 120 per cent to 180 per cent of the distance via line of its competitor; therefore this application will be granted.

Exhibit No. 12 is explanatory of violations existing in class rates between San Francisco and Oakland, on the one hand, and Stockton on the other, lower class rates being maintained between San Francisco, Oakland and Stockton than at intermediate points.

Distance San Francisco–Stockton 78 miles. Low scale:

10 10 9 9 7 7 6 5¾ 5½ 5¼

High intermediate point from San Francisco is Middle River, 63 miles. Rates are:

17 16 14 12 11 11 9 8¾ 8 6

As to this situation applicant sets forth the fact that the low class rates between San Francisco and Stockton are the same as those published by the Southern Pacific Company, the California Transportation Company and the California Navigation and Improvement Company, and were first published in September, 1899, or about one year prior to the completion of applicant's line between San Francisco and Stockton.

From the testimony in this case it is clearly apparent that the water competition of both the regular and irregular boat lines influenced and controlled the rates at the terminal points. These rates appear subnormal and for the reasons given above carrier should be authorized to continue same. Application covered by Exhibit No. 12 will therefore be granted.

Exhibit No. 13 shows the violations in joint class rates published in Pacific Freight Tariff Bureau Tariff No. 34-E, C. R. C. No. 110, between points located on the Western Pacific Railway immediately south of Stockton, on the one hand, and stations on line of applicant, Hoff to Bakersfield, inclusive, on the other, which are lower than rates between intermediate points.

Distance Lathrop to Merced is 75 miles. Low scale:

21 18 16 14 13 13 8 7 6 5

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High intermediate point is from Stockton to Merced, distance 66 miles, with the following rates:

25 21 19 16 15 15 10 8 7 6

In defense of this situation applicant shows that distance to Merced via line of its competitor, Southern Pacific Company, is 58 miles, and that the low schedule is necessary to meet this short line competition.

In the illustration shown above the distance via Western Pacific Railway and applicant's line is 129 per cent of the distance via the short line of the Southern Pacific Company. The same situation exists between other points in this exhibit. Application covered by Exhibit No. 13 will therefore be granted.

Exhibit No. 14 covers violations in the joint class rates maintained by applicant in connection with the Modesto and Empire Traction Company between San Francisco and Los Angeles, on the one hand, and Modesto, on the other, published in applicant's Joint Freight Tariff No. 11569-A, C. R. C. No. 241. In both instances the rates between San Francisco and Los Angeles and Modesto are lower than to points intermediate and in justification therefor applicant shows that the low rates published are the same as the class rates maintained by its direct short line competitor, the Southern Pacific Company, and that such rates are necessary to meet this short line competition.

The distance from San Francisco to Modesto via Southern Pacific Company is 102 miles and via route of applicant's line and its connection 115 miles or 113 per cent greater, and from Los Angeles to Modesto via Southern Pacific distance is 369 miles as against 483 miles via applicant's route or 131 per cent greater. Application covered by Exhibit No. 14 will be granted.

Exhibit No. 15 covers violations in class rates published in applicant's Tariff No. 9885-B, C. R. C. No. 322, applying between Los Angeles and Redondo Beach, on the one hand, and San Diego, on the other, lower rates being maintained between these points than to and from points directly intermediate.

In defense of the rates published to and from Redondo Beach applicant shows that same are necessary to meet the competition of the direct water carriers operating between the ports in question.

In justification of the situation existing in the rates between Los Angeles and San Diego witness for applicant testified that by reason of the existence of motor truck lines operating between Los Angeles and San Pedro Harbor in connection with distillate launches of 150 ton capacity, freight was now actually being handled between Los Angeles and San Diego for less than $2.00 per ton and that rates published are necessary to meet this competition. Application covered by Exhibit No. 15 will therefore be granted.

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Exhibit No. 16 covers obligations in the joint class rates between East San Pedro, East Wilmington, San Pedro and Wilmington, on the one hand, and San Diego, on the other, published in Pacific Freight Tariff Bureau Tariff No. 30-B, C. R. C. No. 111, wherein lower rates are maintained between points named then to intermediate points.

In justification of this situation applicant refers to the fact that actual water competition exists between the points in question, the conditions being the same as from Redondo Beach, set forth in Exhibit No. 15. Since, therefore, actual water competition exists between the points in question and is sufficient to influence and control the rates, application covered by Exhibit No. 16 will be granted.

There are many complicated transportation conditions in the territority involved in these applications due to the competition of the boat lines between ocean ports and upon the navigable waters of the bays and rivers, also by reason of the conditions which force the applicant to meet by circuitous route the rates established by its short line competitors. The different situations and rates were not described in detail in the applications, the facts being developed by the testimony.

There has been no complaint with reference to the rates to the intermediate points and I shall therefore permit the continuance of the present rates to such points. This, however, is not to be construed as finding that the rates now in effect at intermediate points are just and reasonable.

It is understood that this adjustment of non-intermediate rates is reflected at points beyond point of origin or destination, at points between point of origin or destination or at branch line points, by combination on some one of the low rates from or to points shown or on a progression of same. Such combinations and progressions are sometimes published in or made by use of other tariffs than the one containing the low rates. This practice is entirely justifiable and the granting of petitions containing such violations carries with it the authority to continue the application of such rates.

I therefore submit the following form of order:

ORDER.

The Atchison, Topeka and Santa Fe Railway Company (C. L.) having applied to this Commission for an order granting relief from the provisions of section 21 of article XII of the Constitution of California, and for authority to continue intermediate class rates higher than the class rates between the more distant points, as set forth in the exhibits and tariffs referred to in the opinion, which precedes this order, and a hearing having been held and the Commission being fully apprised in the premises, and basing its conclusions on the foregoing findings of fact, as set forth in said opinion,

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It is hereby ordered that The Atchison, Topeka and Santa Fe Railway Company (C. L.) and its connections, such connections arising from membership in the Pacific Freight Tariff Bureau, be and they are hereby authorized to maintain lower class rates as set forth in the applications and exhibits referred to in said opinion and maintain higher class rates to intermediate points, provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter, except the application of the Long and Short Haul clause of the State Constitution and the Public Utilities Act; and

It is further ordered that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals.

All the rates herein authorized are of course subject to complaint, investigation and correction if in conflict with any provision of the Constitution or of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

DECISION No. 3438.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA NAVIGATION AND IMPROVEMENT COMPANY FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (*a*) OF THE PUBLIC UTILITIES ACT, RELATING TO INTERMEDIATE CLASS AND COMMODITY RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-C.

Decided June 19, 1916.

The charging of a higher rate to intermediate points than to terminal points by river boats operating from San Francisco to Stockton is justified in view of the additional expense and hazard necessary owing to the lack of proper wharfage facilities at small river landings, and also owing to the greater tonnage moving between terminal points.

River boats operating on a regular schedule at fixed rates are also subject to considerable competition during the heavy shipping season by tramp boats, not subject to jurisdiction of the Commission, and moving tonnage at whatever rates are obtainable: accordingly, no testimony being presented that the present violations of the long and short haul provisions are unjust or discriminatory, their continuation permitted, subject to complaint and investigation by the Commission under the provisions of the Public Utilities Act.

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Sanborn & Rochl, for California Navigation and Improvement Company, applicant.

Seth Mann, for Traffic Bureau of the Chamber of Commerce, San Francisco, California.

Geo. J. Bradley, for Merchants and Manufacturers Association, Sacramento, California.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This proceeding is a continuation of the Commission's investigation into all violations of the Long and Short Haul provisions of the Constitution of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions it will not be necessary to here repeat the details.

The California Navigation and Improvement Company, in compliance with the orders of this Commission, filed applications for authority to continue all class and commodity rates published in its Local Freight Tariff No. 7, C. R. C. No. 1, which are in violation of section 21, article XII of the Constitution and section 24, (*a*) of the Public Utilities Act.

A lower schedule of class rates is maintained between San Francisco, Oakland, North Vallejo, South Vallejo, Bay Point, Pittsburg, and Antioch, on the one hand, and Stockton, on the other, than is maintained to intermediate landings.

The low rates are:

1	2	3	4	5	A	B	C	D	E
10	10	9	9	7	7	6	5¾	5½	5½

The higher class rates to intermediate landings are as follows:

Between—	and—	1	2	3	4	5	A	B	C	D	E
San Francisco, Oakland, Stockton	Crockett, Port Costa	11	9	8	7	6	6	6	6	5½	5½
	Martinez, Benicia	12	10	8	7	6	6	6	6	5½	5½
San Francisco, Oakland	Bay Point	12	11	9	8	7	7	7	6½	6	6
	Pittsburg	12	11	10	9	8	8	8	7	6½	6
	Antioch	12	11	10	9	9	9	8½	7	6½	6½
San Francisco, North Vallejo, South Vallejo, Bay Point, Pittsburg, Antioch, Stockton	Landings on San Joaquin River	22	20	17	15	14	14	12	9½	9	9

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There are numerous similar violations in the commodity rates and a few examples are set forth below, which are illustrative of the entire situation.

BOX SHOOKS, C. L.

Between—	and—	Rate per ton
San Francisco	Stockton	$1 15
	High Intermediate Rates.	
San Francisco	Antioch	1 40
San Francisco	Landings on San Joaquin River	1 90

CEMENT, LIME AND PLASTER, C. L.

Between—	and—	Rate per ton
San Francisco	Stockton	$1 15
	High Intermediate Rates.	
San Francisco	Antioch	1 40
San Francisco	Landings on San Joaquin River	1 90

WINE, CALIFORNIA, IN WOOD, C. L.

Between—	and—	Rate per ton
San Francisco	Stockton	$1 20
	High Intermediate Rates.	
San Francisco	Bay Point	1 40
San Francisco	Antioch	1 70
San Francisco	Landings on San Joaquin River	2 40

FLOUR AND MILLSTUFFS.

Between—	and—	Lots of less than 12 tons	Lots of 12 tons or over
Stockton	Port Costa	$1 60	$1 20
	High Intermediate Rates.		
Stockton	Landings on San Joaquin River	2 00	1 50

The defense of the applicant for the carrying of lower rates from San Francisco to Stockton than to intermediate points rests, to a certain extent, upon the grounds that the terminals furnish the bulk of the tonnage; also the fact that the operation of the boats is more difficult and the cost of operation greater at the intermediate points. Mr. C. D.

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Clarke, manager of applicant's line, going back into the early history of steamboat rates on the Sacramento and San Joaquin rivers, testified that some twenty-five or more years ago the territory contiguous to Stockton produced enormous quantities of grain, and that the boats and barges handled the bulk of this business to San Francisco, Port Costa and Crockett for domestic consumption and for export. Besides grain, flour and mill stuffs, large quantities of potatoes, beans and other vegetables were handled principally between San Francisco and Stockton.

Beginning about the year 1892 and lasting for several years, a rate war was engaged in by the boat lines and the rail carrier operating in this territory, the fight being most bitter between the Union Transportation Company, California Navigation and Improvement Company and the Southern Pacific Company, the object apparently being to destroy competition. There were no class rates in effect via the boat lines during this period, the entire traffic being handled on commodity rates; at one time freight was solicited by applicant's agent from Stockton to San Francisco as low as 3 cents per 100 pounds. One result of this rate war was to bankrupt the Union Transportation Company and some of its boats were later purchased by the present California Transportation Company. This struggle for supremacy did not materially affect the rates to or from intermediate landings, the fight apparently being for business between the two terminals.

The testimony would indicate that these boat lines were mainly responsible for the rate reductions at San Francisco and Stockton, for at that time no tariffs were filed by water carriers, although under the Constitution of the State they were subject to governmental control. In the early days the boats left Stockton with capacity loads of 500 to 700 tons. This tonnage has been greatly reduced and in the month of December, 1915, the average load per trip was but 127 tons.

In the year 1907, applicant changed its tariff, adopted the Western Classification and published the same class rates between San Francisco and Stockton and the other points mentioned as were in effect in the tariffs of its rail competitor, the Southern Pacific Company. These class rates closely followed the old commodity rates and produced practically the same revenue. Testimony was introduced to the effect that the ten cent scale between San Francisco and Stockton was unreasonably low, was the result of the competition during previous years and would not of itself produce a reasonable return upon the capital invested.

The expense of handling the freight at the intermediate landings is considerably in excess of the costs at the terminals, for the reason that these landings are much more difficult to reach, many of them being at the river embankments without wharves, others are located away from the direct route of the boats, and again the expense of the extra labor at

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intermediate landings is greater than at the terminals. No complaint is made as to the reasonableness of these intermediate rates and I am not prepared upon the testimony in this record to condemn them as excessive, but must, in the absence of testimony to the contrary, presume that they are reasonable.

During the season when the crops of grain, potatoes, beans, etc., are being moved, numerous gasoline boats and barges, known as "tramp" vessels, invade applicant's territory, secure the cream of the business and discontinue service as soon as the heavy shipping season is over. These "tramp" boats, with which the applicant is required to compete, do not operate on any fixed or regular schedule and are not under the jurisdiction of this Commission; as a consequence they carry the traffic at any rates obtainable.

Considering all the circumstances and conditions surrounding the situation, the volume of business handled at the intermediate landings as compared with that handled between terminal points, the extra cost of loading and unloading cargoes at the intermediate landings and more especially the competition applicant is compelled to meet between the terminal points, I am of the opinion that these applications should be granted.

I therefore submit the following form of order:

ORDER.

The California Navigation and Improvement Company, in compliance with the orders of this Commission, having applied to the Commission for an order granting relief from the provisions of section 21, article XII of the Constitution of California, and for authority to continue intermediate class and commodity rates that are higher than the class or commodity rates to or from more distant points, as set forth in tariff referred to in the opinion, and hearings having been held on these applications and the Commission being fully apprised in the premises and basing its conclusions on the findings of fact set forth in the preceding opinion, the Commission is of the opinion that these applications should be granted solely for the reasons therein set out.

It is hereby ordered that the California Navigation and Improvement Company be and it is hereby authorized to continue class and commodity rates as set forth in the preceding opinion and in tariff referred to, and maintain higher rates to intermediate landings, provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter, except the application of the Long and Short Haul clause of the State Constitution and the Public Utilities Act.

All the rates herein authorized are, of course, subject to complaint, investigation and correction if in conflict with any of the provisions of the Constitution or of the Public Utilities Act.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

DECISION No. 3439.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA TRANSPORTATION COMPANY FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (*a*) OF THE PUBLIC UTILITIES ACT, RELATING TO INTERMEDIATE CLASS AND COMMODITY RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-D.

Decided June 19, 1916.

Owing to the additional expense incurred by river transportation companies in loading and unloading freight at intermediate river landings, the majority of which have practically no wharfage facilities, and also owing to competition during the heavy shipping season by tramp vessels, not subject to the Commission's jurisdiction, and moving freight at whatever rates are obtainable, higher rates to intermediate points than to the terminal points of San Francisco, Sacramento and Stockton, between which the bulk of freight is moved, are justified, and their continuance permitted, subject to complaint and investigation under the provisions of the Public Utilities Act.

Sanborn & Roehl, for California Transportation Company, Applicant.

Seth Mann, for Traffic Bureau of the Chamber of Commerce, San Francisco, California.

Geo. J. Bradley, for Merchants and Manufacturers Association, Sacramento, California.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This proceeding is a continuation of the Commission's investigation into all violations of the long and short haul provisions of the Constitution of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions it will not be necessary to here repeat the details.

The California Transportation Company, in compliance with the orders of this Commission, filed applications for authority to continue all class and commodity rates published in its Local Freight Tariff No. 8, C. R. C. No. 1, and supplements thereto, which are in violation of section 21, article XII, of the Constitution, and section 24 (*a*) of the Public Utilities Act.

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The tariff, referred to, contains rates between all points reached by petitioner's boats and it maintains lower class rates between San Francisco, Oakland, North Vallejo, South Vallejo, Bay Point, Pittsburg and Antioch, on the one hand, and Stockton, on the other, then to intermediate landings.

Low scale of rates is as follows:

1	2	3	4	5	A	B	C	D	E
10	10	9	9	7	7	6	5¾	5½	5¼

The higher rates to intermediate landings are:

Between—	and—	1	2	3	4	5	A	B	C	D	E
San Francisco-- Oakland	Crockett	11	9	8	7	6	6	6	6	5½	5½
	Port Costa										
	Martinez	12	10	8	7	6	6	6	6	5½	5½
	Benicia										
San Francisco-- Oakland	Bay Point	12	11	9	8	7	7	7	6½	6	6
	Pittsburg	12	11	10	9	8	8	8	7	6½	6
	Antioch	12	11	10	9	9	9	8½	7	6½	6½
San Francisco-- North Vallejo-- South Vallejo-- Bay Point Pittsburg Antioch Stockton	Landings on San Joaquin River	22	20	17	15	14	14	12	9½	9	9

There are numerous similar violations in the commodity rates and a few examples are here set forth which are illustrative of the entire situation.

BOX SHOOKS, C.L.

Between—	and—	Rate per ton
San Francisco	Stockton	$1 15
	High Intermediate Rates.	
San Francisco	Antioch	1 40
San Francisco	Landings on San Joaquin River	1 50

CEMENT, LIME AND PLASTER, C.L.

San Francisco	Stockton	$1 15
	High Intermediate Rates.	
San Francisco	Antioch	1 40
San Francisco	Landings on San Joaquin River	1 90

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WINE, CALIFORNIA, IN WOOD, C.L.

San Francisco	Stockton	$1 20
	High Intermediate Rates.	
San Francisco	Bay Point	1 40
San Francisco	Antioch	1 70
San Francisco	Landings on San Joaquin River	2 40

FLOUR AND MILLSTUFFS.

Between—	and—	Lots of less than 12 tons	Lots of 12 tons or over
Stockton	Port Costa	$1 60	$1 20
	High Intermediate Rates.		
Stockton	Landings on San Joaquin River	2 00	1 50

Low Commodity Rates Between San Francisco and Sacramento.

Breakfast foods, coffee, green, in sacks, and sugar, in lots of not less than 5,000 pounds.

From—	To—	Per 100 pounds
San Francisco	Sacramento	$0 10

High intermediate rates are between Collinsville and Glyde Landing and points between where rates are as follows:

In lots of less than 30,000 pounds	$0 15
In lots of 30,000 pounds, or more	14

Fertilizers, in lots of not less than 20,000 pounds.

From—	To—	Per 100 pounds
San Francisco	Sacramento	$0 07½

High intermediate rates are between Collinsville and Glyde Landing and points between where rates are as follows:

In lots of less than 30,000 pounds	$0 15
In lots of 30,000 pounds or more	09

Babbitt metal, borax and bags, paper, in lots of not less than 5,000 pounds.

From—	To—	Per 100 pounds
San Francisco	Sacramento	$0 10

High intermediate rates are between Collinsville and Glyde Landing and points intermediate where rates are as follows:

In lots of less than 36,000 pounds	$0 17
In lots of 36,000 pounds or more	14

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In justification of the maintenance of higher class and commodity rates to or from intermediate river landings than are charged between the terminal points, namely, San Francisco, on the one hand, and Stockton and Sacramento, on the other, Mr. A. A. Bowman, general freight and passenger agent for applicant's line of boats, testified that the operating conditions of his line were substantially the same as those met by his competitor, the California Navigation and Improvement Company, referred to in Case No. 214-C; that it had the same competition to meet in the way of gasoline boats and barges of the so-called "tramp" variety, and that it was more expensive to load and unload cargoes at intermediate landings than at the terminals.

Mr. Bowman further testified that his company did not operate through to Stockton until March, 1905; this was after it had purchased some of the boats of the defunct Union Transportation Company, which company became bankrupt as a result of the rate wars of 1892-1899, when it is alleged that the rates to Stockton were completely demoralized and at times reduced below the cost of handling the traffic. When applicant's line was extended to Stockton in 1905, it adopted the rates charged at that time by its competitors, the same also being true as to the Sacramento rates, to which point applicant extended its service in 1907.

The hearings in this case, No. 214-D, were held in connection with Case No. 214-C, being the application of the California Navigation and Improvement Company for relief from its long and short haul violations, and from the evidence submitted it would appear that the following portions of this Commission's decision in that case apply with equal force to the present case:

> "Beginning about the year 1892 and lasting for several years, a rate war was engaged in by the boat lines and the rail carrier operating in this territory, the fight being most bitter between the Union Transportation Company, California Navigation and Improvement Company and the Southern Pacific Company, the object apparently being to destroy competition. There were no class rates in effect via the boat lines during this period, the entire traffic being handled on commodity rates; at one time freight was solicited by applicant's agent from Stockton to San Francisco as low as 3 cents per 100 pounds. One result of this rate war was to bankrupt the Union Transportation Company and some of its boats were later purchased by the present California Transportation Company. This struggle for supremacy did not materially affect the rates to or from intermediate landings, the fight apparently being for business between the two terminals.
>
> The testimony would indicate that these boat lines were mainly responsible for the rate reductions at San Francisco and Stockton, for at that time no tariffs were filed by water carriers, although under the Constitution of the State they were subject to governmental control. In the early days the boats left Stockton with

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capacity loads of 500 to 700 tons. This tonnage has been greatly reduced and in the month of December, 1915, the average load per trip was but 127 tons.

In the year 1907 applicant changed its tariff, adopted the Western Classification and published the same class rates between San Francisco and Stockton and the other points mentioned as were in effect in the tariffs of its rail competitor, the Southern Pacific Company. These class rates closely followed the old commodity rates and produced practically the same revenue. Testimony was introduced to the effect that the ten cent scale between San Francisco and Stockton was unreasonably low, was the result of the competition during previous years, and would not of itself produce a reasonable return upon the capital invested.

The expense of handling the freight at the intermediate landings is considerably in excess of the costs at the terminals for the reason that these landings are much more difficult to reach, many of them being at the river embankments without wharves, others are located away from the direct route of the boats, and again the expense of the extra labor at intermediate landings is greater than at the terminals. No complaint is made as to the reasonableness of these intermediate rates and I am not prepared upon the testimony in this record to condemn them as excessive, but on the contrary must, for the purpose of passing this petition, presume that they are reasonable.

During the season when the crops of grain, potatoes, beans, etc., are being moved, numerous gasoline boats and barges, known as "tramp" vessels, invade applicant's territory, secure the cream of the business and discontinue service as soon as the heavy shipping season is over. These "tramp" boats, with which the applicant is required to compete, do not operate on any fixed or regular schedule and are not required to file their rates with this Commission; as a consequence they contract for business at any rates obtainable."

It follows that the application should be granted and I therefore submit the following form of order:

ORDER.

The California Transportation Company having applied to this Commission for an order granting relief from the provisions of section 21, article XII, of the Constitution of California, and for authority to continue intermediate class and commodity rates that are higher than the class and commodity rates to or from more distant points, as set forth in tariff referred to in this opinion, and a hearing having been held on these applications and the Commission being fully apprised in the premises, and basing its conclusions on the findings of fact set forth in the preceding opinion, the Commission is of the opinion that these applications should be granted solely for the reasons therein set out.

It is hereby ordered that the California Transportation Company be and it is hereby authorized to continue class and commodity rates as set forth in the preceding opinion and in tariff referred to, and maintain

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higher rates to intermediate landings; provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter, except the application of the long and short haul clause of the State Constitution and the Public Utilities Act.

All the rates herein authorized are, of course, subject to complaint, investigation and correction if in conflict with any of the provisions of the Constitution or of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

DECISION NO. 3440.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR THEMSELVES AND ON BEHALF OF CARRIERS PARTIES TO TARIFFS OF THE PACIFIC FREIGHT TARIFF BUREAU FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (*a*) OF THE PUBLIC UTILITIES ACT, RELATING TO INTERMEDIATE COMMODITY RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-E.

Decided June 19, 1916.

Violations of the long and short haul provisions of the Constitution and the Public Utilities Act are permissive when the lower rate permits an industry to dispose of its products in competition with other industries of a like nature which have available cheaper transportation facilities reaching the same field. Where no discrimination exists, present rates based on market conditions permitted to remain in effect.

Violations compelled by water competition permitted to remain in effect, as are also such cases where like industries operating in certain territory make it necessary to blanket a rate account market competition.

Where a circuitous route serves territory in competition with a more direct line, the former being from 110 to 160 per cent of the distance of the shorter route, rates established to meet such competition are justifiable.

Geo. D. Squires, for Southern Pacific Company, Applicant.

Seth Mann, for Traffic Bureau of the Chamber of Commerce, San Francisco, California.

F. M. Hill, for Fresno Traffic Association, Fresno, California.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This proceeding is a continuation of the Commission's investigation into all violations of the long and short haul provisions of the Constitu-

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tion of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions it will not be necessary to here repeat the details.

The Southern Pacific Company, in response to the orders of the Commission, filed its applications for authority to continue all commodity rates which are in violation of section 21, article XII, of the Constitution, and section 24 (*a*) of the Public Utilities Act. These rates are now shown in the various commodity tariffs of the applicant and in tariffs published by F. W. Gomph, agent Pacific Freight Tariff Bureau, a full list of which is as follows:

Tariffs Containing Commodity Rates That are in Violation of the Long and Short Haul Provisions.

SOUTHERN PACIFIC COMPANY.

C.R.C. No.	Description of tariff
33	Commodity Tariff No. 291-C.
54	Joint Freight Tariff No. 374.
127	Wood Specials, Tariff No. 3.
699	Lumber and its products, Tariff No. 634.
719	Powder Rates, Tariff No. 464.
1417	Local Freight Tariff No. 421-A.
1528	Dried Fruit Rates, Tariff No. 121-B.
1591	Beans and Peas, dried, Tariff No. 667-A.
1613	Fertilizer Rates, Tariff No. 726.
1625	Sugar Beets, Tariff No. 10-B.
1632	General Commodity Tariff No. 730.
1670	Cement Rates, Tariff No. 584-A.
1718	Oil and Petroleum Products, Tariff No. 333-E.
1734	Flour, Cereals and Products, Tariff No. 659-A.
1761	Grain and Grain Products, Tariff No. 793.
1788	Vegetable Rates, Tariff No. 796.
1802	Live Stock Tariff No. 615-A.
1903	Local Freight Tariff No. 763-D.
1915	Local Freight Tariff No. 825.
1916	Local Freight Tariff No. 541.
2023	Local Freight Tariff No. 817.
2049	G. F. D. Circular No. 198-F.

F. W. GOMPH, AGENT PACIFIC FREIGHT TARIFF BUREAU.

88	Pacific Freight Tariff Bureau No. 38-C.
95	Pacific Freight Tariff Bureau No. 88-A.
99	Pacific Freight Tariff Bureau No. 24-C.
101	Pacific Freight Tariff Bureau No. 16-B.
105	Pacific Freight Tariff Bureau No. 42-B.
110	Pacific Freight Tariff Bureau No. 34-E.
111	Pacific Freight Tariff Bureau No. 30-B.
117	Pacific Freight Tariff Bureau No. 48-C.
125	Pacific Freight Tariff Bureau No. 117-A.
126	Pacific Freight Tariff Bureau No. 31-B.

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In justification of the maintenance of higher commodity rates at intermediate points than to more distant points, the petitioner filed with the Commission at its various hearings some 250 exhibits explanatory of each violation as it exists in the tariff to which reference is made. These exhibits are very voluminous and no attempt will be made to set forth the analysis of each individual violation: to do so would needlessly burden the report, therefore reference is only made to the different situations as found in the exhibits filed in the case.

A very great majority of the exhibits show that the low rate to the more distant point is the direct result of active water competition, which applicant contends is sufficient to influence and control the rates, there being numerous steamship companies that maintain regular service between all ports of call of this State on the Pacific Ocean, as well as various water craft operating on San Francisco Bay and navigable waters tributary thereto.

Exhibits also show violations not influenced or controlled by water competition, but which are the result of the necessity of applicant to meet, via its long line, the low rate of a short line competitor, except in a very few isolated cases where the low rate was shown to be absolutely necessary to meet a market condition in order that an industry might dispose of its products, as is the case where a nonintermediate rate of 27½ cents per 100 pounds is published from Floriston to San Pedro and Los Angeles, applying on paper—wrapping and tissue—carloads, to meet rate of 17¾ cents per 100 pounds, accorded Northern Paper Mills by water carriers from Portland, Oregon, to San Pedro, published by the San Francisco and Portland Steamship Company in its Tariff P-6, I. C. C. No. 7.

That competition between carriers serving the same markets of production may be a just reason for relief from long and short haul violations is recognized by the courts and the Interstate Commerce Commission. In this connection may be cited the following cases: *Louisville & Nashville R. R. Co.* vs. *Behlmer*, 175 U. S. 648; *Fourth Section Violations in the Southeast*, 30 I. C. C. 153-279, and *Corporation Commission of New Mexico* vs. *A. T. & S. F. Ry. et al.*, 34 I. C. C. 292–301. In this latter case the Interstate Commerce Commission said:

> "Many, if not all, of the commodities purchased by the El Paso jobber or consumer at Kansas City, St. Louis and Chicago can be likewise purchased at New York and other points on the Atlantic seaboard from which the water-and-rail routes are available. This situation presents competition between carriers serving markets of production, which kind of competition, we held in the fourth section case cited, may properly be a valid basis for fourth section relief."

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There being no discrimination I shall permit the present rates, based on market competition, to remain in effect, subject to further investigation upon complaint.

As an explanation of the various violations existing in the commodity rates published by applicant, the following illustrations have been taken from exhibits filed with the Commission which cover items contained in applicant's General Commodity Tariff No. 730, C. R. C. 1632.

EXHIBIT A.

Water Competition.

Commodity	Between—	and—	Rate per 100 lbs
Acid, sulphuric, C.L.	San Francisco, Oakland, Nichols, and points between.	Los Angeles, San Pedro and points between.	$0 17½

Highest rate at intermediate point is 20 cents per 100 pounds.

In justification of this rate applicant refers to the fact that rate of 17½ cents per 100 pounds is quoted by various steamship lines operating between San Francisco and San Pedro in connection with rail carriers between Port San Pedro and Los Angeles.

EXHIBIT E.

Commodity	Between—	and—	Rate per 100 lbs.
Asphaltum, C.L.	Hadley	San Francisco, Oakland	$0 10

Highest rate at intermediate point is 25 cents.

In defense of this rate it is shown that the Pacific Coast Railway operating in connection with the Pacific Coast Steamship Company, via Port San Luis, publish a joint through rate of 10 cents per 100 pounds from and to same points and such rate via applicant's line is necessary to meet this water competition.

EXHIBIT G.

Commodity	Between—	and—	Rate per 100 lbs
Bags and bagging, burlap, C.L.	San Francisco and Oakland.	Stockton	$0 05

Highest rate at intermediate point is 11 cents.

Reason given by applicant for necessity of this low rate is water competition. Both the California Transportation Company and California Navigation and Improvement Company (steamer lines) publish rate of 5 cents between same points.

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EXHIBIT H.

Commodity	Between—	and—	Rate per 100 lbs
Bags and bagging, burlap, C.L.	San Francisco	Santa Barbara, Ventura and Oxnard.	$0 25

Highest rate at intermediate point is 38 cents.

Defense of applicant in this instance is the fact that both the Pacific Coast Steamship Company and the North Pacific Steamship Company publish rate of 15 cents per 100 pounds on this commodity between same points.

EXHIBIT I.

Commodity	Between—	and—	Rate per 100 lbs.
Bags and bagging, burlap, C.L.	San Francisco	Del Monte Junction Salinas	$0 17½ 21½

Highest rate at intermediate point is 22 cents.

In justification of these rates applicant refers to the fact that the Pacific Coast Steamship Company publish rate of 11 cents per 100 pounds on this commodity, San Francisco to Santa Cruz, and a joint through rate, in connection with the Pajaro Valley Consolidated Railway, of 16½ cents from San Francisco to Salinas and Spreckels.

EXHIBIT N.

Commodity	Between—	and—	Rate per 100 lbs.
Beer, C.L.	San Francisco	Sacramento	$0 10

Highest rate at intermediate point is 13 cents.

In defense of this rate applicant refers to the fact that the Farmers' Transportation Company publish rate on this commodity of 8 cents and the California Transportation Company a rate of 10 cents per 100 pounds between same points.

EXHIBIT O.

Commodity	Between—	and—	Rate per 100 lbs.
Beer, C.L.	San Francisco, Oakland, San Jose, Sacramento.	Los Angeles, Santa Ana, Colton, Riverside, San Bernardino.	$0 25

Highest rate at intermediate point from San Francisco is 47 cents.

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In defense of this situation applicant shows that the Pacific Coast Steamship Company, in connection with rail carriers, maintains rate of 19½ cents per 100 pounds on this commodity from San Francisco to Los Angeles, and contends that this rate is reflected to points contiguous to both San Francisco and Los Angeles.

EXHIBIT R.

Commodity	Between—	and—	Rate per 100 lbs.
Beer, C.L.	Sacramento	Santa Barbara	$0 25

Highest rate at intermediate point is 68 cents.

In defense of this rate it is shown that the Farmers' Transportation Company publish rate on this commodity of 8 cents per 100 pounds from Sacramento to San Francisco, and the Pacific Coast Steamship Company a rate of 17½ cents San Francisco to Santa Barbara. The low rate of 25 cents made by applicant is necessary to meet this water competition.

EXHIBIT W.

Commodity	Between—	and—	Rate per 100 lbs.
Canned goods, C.L.	Stockton, Tracy, Lathrop, Bakersfield and points between.	Los Angeles	$0 27½

Highest rate at intermediate point is 46½ cents.

In defense of this rate applicant shows that from Stockton to San Francisco there is a water-compelled rate of 5 cents per 100 pounds and a rail and water rate via various steamship lines San Francisco to Los Angeles of 17 cents, the rate of 27½ cents being necessary to meet such competition. In addition to this, the 5th Class rate Stockton to Los Angeles is also 27½ cents, and practically all canned goods, in the absence of a special commodity rate, move under Western Classification at 5th Class rate.

In justification of the extension of this rate to include Bakersfield and points intermediate to Stockton, applicant contends that it is absolutely necessary that the various canning establishments located throughout the San Joaquin Valley be given equal rates, otherwise they could not dispose of their products. In other words, it is necessary to blanket these rates on account of market competition.

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EXHIBIT Z.

Commodity	Between—	and—	Rate per 100 lbs.
Canned goods, C.L.	Los Angeles	Merced	$0 37

Highest rate at intermediate point is 45 cents.

In defense of this rate, it is shown that there is available a rail and water rate of 35¼ cents, made up as follows:

Los Angeles to San Francisco	Pacific Coast S.S. Company	$0 17
San Francisco to Stockton	California Nav. and Imp. Co.	05¾
Stockton to Merced	Southern Pacific Company	12½
Total		$0 35¼

EXHIBIT B-1.

Commodity	Between—	and—	Rate per 100 lbs.
Canned goods, C.L.	Huntington Beach	Santa Barbara	$0 25

Highest rate at intermediate point is 31 cents.

Reason given for this rate is the fact that rail rate on this commodity from Huntington Beach to San Pedro is 10 cents, and rate from San Pedro to Santa Barbara, via Pacific Coast Steamship Company, is 15 cents, making through rail and water rate of 25 cents, which rate applicant is forced to meet.

EXHIBIT T-2.

Commodity	Between—	and—	Rate per 100 lbs
Briquettes, C.L.	Stockton	Napa and West Napa	$0 05½

Highest rate at intermediate point is 11 cents.

In defense of this rate applicant referred to the fact that this same rate is published by the boat lines operating between points named.

There are numerous similar violations in this same tariff on commodities other than those illustrated above. The same situations also exist in each of the specific commodity tariffs enumerated in the list of tariffs hereinabove set out.

The circumstances and conditions as to water competition are practically the same in each tariff, although points of origin or destination may differ in each case. This is especially true where commodity rates

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are made between points in northern California, on the one hand, and points in southern California, on the other. The water competition would be the same in each instance between San Francisco and San Pedro or points contiguous to San Francisco, but the rates on some commodities would apply from, to or between a very few specified points, while on some other commodities it would be necessary that the rates be blanketed to include somewhat widely separated points of origin in order to place the producing points on an equal basis, as is the case with the clay products rates where same are blanketed on the north to include not only San Francisco, and other producing points located around San Francisco Bay, but include Lincoln and Ahart as well.

This situation is also true of the pig iron and sheet iron rates, points of origin being blanketed to include San Jose, San Francisco, Stockton, Sacramento, Marysville and points between. In other words, these rates are affected both by market and water competition and, as heretofore stated, market competition is a well established principle upon which rates violative of the long and short haul principle may properly be based.

Long Line Meeting Rates in Effect via Short Line Competitor.

The following illustrations of this situation are taken from applicant's exhibits filed with the Commission:

Exhibit No. 1, S. P. Co. Tariff No. 121-B, C. R. C. 1528.

Commodity	Between—	and—	Rates per 100 lbs. C.L.	Rates per 100 lbs. L.C.L.
Dried fruit	Hanford	Reedley	$0 07½	$0 09

Highest rate at intermediate point is 9 cents, C.L., and 10½ cents, L.C.L.

In defense of this situation applicant shows that distance between these two points via Atchison, Topeka and Santa Fe Railway is 53 miles, as against 58 miles via Southern Pacific Company, and such rates are necessary to meet the rates made by the short line competition.

Exhibit No. 1, S. P. Co., Tariff No. 726, C. R. C. 1613.

Commodity	Between—	and—	Rate per 100 lbs.
Fertilizers, C.L., as described in W.C.	Colton	Arcadia, Monrovia, Duarte.	$0 06½

Highest rate at intermediate point is 12 cents.

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The defense of this situation is the same as that shown next above, mileage being as follows:

From—	to—	Via	
		A. T. & S. F.	Southern Pacific Company
Colton	Arcadia	46	60
	Monrovia	44	62
	Duarte	43	64

In all the exhibits filed with the Commission covering situations similar to those illustrated above, where the long circuitous route meets the rates established by a direct short line competitor between the same points, the distance via the circuitous route being from 110 to 150 per cent of the distance via the short line, there is sufficient grounds upon which relief may be granted.

In view of all the facts and circumstances appearing as hereinabove set forth, these applications will be granted until it may be otherwise ordered upon future investigation in particular cases, and applicant will be permitted to continue to charge lower commodity rates between the points where it meets short line, market and water competition, and to maintain higher rates at the intermediate points as published in its tariffs.

This adjustment of nonintermediate rates is reflected at points beyond point of origin or destination, at points between point of origin or destination or at branch line points by combination on some one or other of the "low" rates from or to points shown or on a progression of same; such combinations and progressions are sometimes published in or made by use of other tariffs than the one containing the "low" rates.

This practice is entirely justifiable and the granting of petitions containing such violations carries with it the authority to continue the application of such rates.

I therefore submit the following form of order:

ORDER.

The Southern Pacific Company having applied to this Commission for an order granting relief from the provisions of section 21 of article XII of the Constitution of California and for authority to continue intermediate commodity rates that are higher than rates on the same commodity between more distant points, as set forth in the exhibits and tariffs referred to in the opinion which precedes this order, and a hearing having been held and the Commission being fully apprised in the premises and basing its conclusions on the foregoing findings of fact, as set forth in said opinion,

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It is hereby ordered that the Southern Pacific Company and its connections, such connections arising from membership in the Pacific Freight Tariff Bureau, be and they are hereby authorized to continue commodity rates as set forth in the applications and exhibits referred to in said opinion and maintain higher rates at intermediate points, provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter, except the application of the long and short haul clause of the State Constitution and the Public Utilities Act; and

It is further ordered that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals.

All the rates herein authorized are, of course, subject to complaint, investigation and correction if in conflict with any provision of the Constitution or of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

DECISION No. 3441.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (C. L.) FOR THEMSELVES AND ON BEHALF OF CARRIERS PARTIES TO TARIFFS OF PACIFIC FREIGHT TARIFF BUREAU FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (*a*) OF THE PUBLIC UTILITIES ACT RELATING TO INTERMEDIATE COMMODITY RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-F.

Decided June 19, 1916.

Applicant submits a list of rates at present in effect in violation of the provisions of the long and short haul clause, and upon a showing that all of such rates are either compelled by water competition or are necessitated owing to the fact that a competing line is serving the same territory by a more direct or a considerably shorter line, which competition applicant is obliged to meet; permission to continue such rates in effect granted, provided that such rates are subject to complaint, investigation and correction in accordance with the provisions of the Public Utilities Act.

G. H. Baker, for Atchison, Topeka and Santa Fe Railway Company (C. L.), Applicant.

Seth Mann, for Traffic Bureau of the Chamber of Commerce, San Francisco, California.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This proceeding is a continuation of the Commission's investigation into all violations of the long and short haul provisions of the Constitution of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions it will not be necessary to here repeat the details.

The Atchison, Topeka and Santa Fe Railway Company (C. L.), in compliance with the orders of this Commission, filed its applications for authority to continue all commodity rates which are in violation of section 21, article XII, of the Constitution, and section 24 (*a*) of the Public Utilities Act. These commodity rates are now published in the various commodity tariffs of the applicant, as hereinafter set forth. Applications also cover violations existing in joint freight tariffs in connection with applicant's line, issued by F. W. Gomph, agent for the Pacific Freight Tariff Bureau. Following is a full list of the tariffs in question:

List of Atchison, Topeka and Santa Fe Railway Company (C. L.) Tariffs and Tariffs published by F. W. Gomph, agent, Pacific Freight Tariff Bureau, which contain commodity rates in violation of the long and short haul provisions of the Constitution:

C. R.C.		A. T. & S. F. No.
116	Local and joint tariff—liquors, mineral waters, fruit juices, etc.	9821-A
172	Local and joint tariff—salt	9780-A
206	Local and joint tariff—beet pulp, C. L.	11381
227	Local, joint and proportional tariff—wool, hides and sheep pelts	7754-D
241	Joint tariff—class and commodities	11569-A
255	Local and joint tariff—commodities	5908-G
256	Local, joint and proportional tariff—coal, coke, charcoal and briquettes	9373-B
259	Local and joint tariff—junk, bones, old bottles, etc.	9920-B
260	Local, joint and proportional tariff—building blocks, brick, clay, etc.	9788-C
264	Local tariff—forest products	5958-D
273	Local and joint tariff—fuel wood	9366-B
274	Local and joint tariff—petroleum and petroleum products	9777-D
275	Local and proportional tariff—iron and steel articles	9815-B
276	Local tariff—seed, C. L. and L. C. L., as named	10046-A
281	Local, joint and proportional tariff—building, paving blocks, granite, etc.	9917-C
289	Local, joint and proportional tariff—cement, Portland (building), gypsum, etc.	9798-E
295	Local and joint tariff—flour, cereals, cereal products, etc.	11988
302	Local and joint tariff—grain and articles taking grain rates	8243-A
320	Local and joint tariff—hay and straw	8245-A
323	Local tariff—beans (dried), fruit (dried), fruit pits, lemons, etc.	11992
335	Local and joint tariff—live stock	5907-B

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Pacific Freight Tariff Bureau.

80	Joint freight tariff—citrus fruits, oranges, lemons, limes, etc.	65-A
88	Joint and proportional tariff—class and commodity	38-C
104	Joint freight tariff—commodity	90-B
105	Local and joint tariff—transshipment class and commodity	42-B
110	Joint and proportional tariff—class and commodity	34-E
111	Local, joint and proportional tariff—class and commodity	30-B
125	Joint tariff—lumber and its products	117-A
126	Joint tariff—class and commodity	31-B
131	Joint tariff—cement	88-B

In justification of the maintenance of higher commodity rates at intermediate points than to more distant points, the applicant filed with the Commission, at its various hearings, some 400 exhibits explanatory of each violation as it exists in the tariff to which reference is made.

No attempt will be made herein to analyze each individual violation, as the exhibits show that all the violations are the result of the necessity of applicant to meet either the actual competition of the various boat lines or the rates established by a short line rail competitor or both. The situations are practically the same in each case, the only difference being in the commodity moved, and a few illustrations will serve to show the entire situation:

WATER COMPETITION.

Exhibit No. 1 covers violations in rate on sulphur, carloads, from San Francisco, Richmond, Berkeley, Emeryville and Oakland to Los Angeles of 15 cents per 100 pounds, published in applicant's Commodity Tariff No. 5908-G, C.R.C. No. 255. High rate at intermediate point is San Francisco to Hawes, 5th Class rate, 38 cents per 100 pounds.

In defense of this situation applicant refers to the fact that the Pacific Coast Steamship Company, in connection with rail carriers, maintains through rates San Francisco to Los Angeles of 13½ cents per 100 pounds on this commodity. This same "low" rate is also in effect via applicant's short line competitor, the Southern Pacific Company.

Since actual water competition exists between the points in question and is sufficient to influence and control the rates, this application and applications covering similar situations will be granted.

Exhibit No. 6 covers violation in rate on agricultural implements, carloads, from San Francisco to Los Angeles and San Diego of 25 cents per 100 pounds, published in Tariff 5908-G, C.R.C. No. 255. High rate at intermediate point is San Francisco to Hicks, rate 63 cents per 100 pounds.

In defense of this rate applicant shows that the Pacific Coast Steamship Company maintains rate of 22 cents to Los Angeles, in connection

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with rail lines, and rate of 20 cents to San Diego and that the all-rail rate of 25 cents is necessary to meet this water competition.

This and similar applications will be granted.

Exhibit No. 11 covers violation in rate on brine, chloride of magnesia, carloads, from Los Angeles and Nadeau Park to San Francisco of 27½ cents per 100 pounds, published in Tariff C.R.C. No. 255. High rate at intermediate point is 3d Class, Los Angeles to Kramer, 56 cents per 100 pounds.

In defense of this situation applicant refers to the fact that rate of 19½ cents per 100 pounds is maintained from Los Angeles to San Francisco via Pacific Coast Steamship Company and its rail line connections. This and similar applications will be granted.

Exhibits Nos. 15, 16 and 17 cover violations in rates on canned goods, carloads, from San Francisco, Oakland, Fruitvale and San Leandro to Los Angeles of 22½ cents per 100 pounds, the rates being carried in the following tariffs:

Exhibit No. 15 covers rate from San Francisco and Oakland, published in applicant's Local Tariff No. 5908-G, C.R.C. No. 255.

Exhibit No. 16 covers rate from Oakland via Oakland, Antioch and Eastern Railway to Bay Point, thence Atchison, Topeka and Santa Fe Railway, as published by F. W. Gomph, agent for Pacific Freight Tariff Bureau in Tariff No. 34-E, C.R.C. No. 110.

Exhibit No. 17 covers rate from Fruitvale and San Leandro via Western Pacific Railway to Stockton, thence Atchison, Topeka and Santa Fe Railway, as published by F. W. Gomph, agent for Pacific Freight Tariff Bureau, in Tariff No. 34-E, C.R.C. No. 110.

High rate at intermediate point in each case is 60½ cents per 100 pounds at Wild.

In justification of this situation applicant shows that the Pacific Coast Steamship Company, in connection with rail line carriers, maintains rate of 17 cents per 100 pounds on this commodity between San Francisco and Los Angeles and to meet this competition it is necessary to make this low rate from San Francisco and Oakland, also to extend same to include canneries located on Oakland, Antioch and Eastern Railway at Oakland and on Western Pacific Railway at Fruitvale and San Leandro, thus putting them on an equal footing with canneries located in San Francisco.

It being found that actual water competition exists sufficient to influence and control the rates between San Francisco and Oakland, on the one hand, and Port San Pedro and San Diego, on the other, and that the low rates are reflected to interior points contiguous to all points

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named above, these applications covered by Exhibits Nos. 15, 16 and 17, and all others of like nature, will be granted.

Exhibit No. 111 covers violations in rate on flour, straight carloads, or flour and bran, mixed C. L. from Los Angeles to San Diego and National City of 10 and 14 cents per 100 pounds, respectively, published in applicant's Commodity Tariff No. 11988, C.R.C. No. 295.

High rate at intermediate point is Los Angeles to San Onofre, 17½ cents per 100 pounds.

The conditions in this instance are the same as exist in the class rate situation between same points, which is fully set forth in decision in Case No. 214-B. Therefore this and applications covering similar violations will be granted.

Exhibit No. 114 covers violation in rate on coal C. L., from San Francisco, Oakland and Richmond to Stockton of 4½ cents per 100 pounds, published in applicant's Commodity Tariff No. 9373-B, C. R. C. No. 256.

High rate at intermediate point is San Francisco to Werner, 7 cents per 100 pounds.

In defense of this situation applicant directs attention to steamer rate of 5½ cents per 100 pounds in effect from San Francisco to Stockton via California Navigation and Improvement Company, and to rate of 4½ cents per 100 pounds and lower charged by scow schooners. Therefore this and applications covering similar situations will be granted.

Exhibit No. 129 covers violation in rate on stone, C. L., from San Diego to Santa Barbara of 15 cents per 100 pounds, published in Pacific Freight Tariff Bureau No. 30-B, C.R.C. No. 111. Higher rates are maintained at intermediate points, the high points being Dulah and Carpinteria.

In defense of this situation applicant quotes rate in effect from San Diego to Santa Barbara via Pacific Coast Steamship Company of 15 cents per 100 pounds, in view of which this and applications covering similar situations will be granted.

COMPETITION AS BETWEEN SEA PORTS.

Exhibit No. 132 covers violations in rate of 3½ cents per 100 pounds on guano and phosphate rock, C. L., from San Diego to Nadeau Park, published in Pacific Freight Tariff Bureau Tariff No. 42-B, C. R. C. No. 105.

High rate at intermediate point is San Diego to San Juan, 12 cents per 100 pounds.

In defense of this rate applicant avers that it is the same as is in effect via Southern Pacific Company from San Pedro to Nadeau Park,

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that the guano originates in foreign countries reaching San Pedro and San Diego via water and that competition through San Pedro necessitates equalization of rate through San Diego.

Since actual "port competition" exists between the points in question and is sufficient to influence and control the rates this and other applications covering similar situations will be granted.

LONG LINE MEETING RATES VIA SHORT LINE.

Exhibit No. 9 covers violation in rate of 20 cents per 100 pounds on asphalt, C. L., from Bakersfield to Pasadena, published in Tariff C. R. C. No. 255. High rate at intermediate point is 24 cents at Santa Anita.

In defense of this low rate applicant shows that the distance Bakersfield to Pasadena, via its line, is 273 miles and via the line of its competitor, the Southern Pacific Company, the distance is only 180 miles, and that this rate is published by the Southern Pacific Company. Since the distance via applicant's line is 182 per cent of the distance via its short line competitor this application, covered by Exhibit No. 9 and similar applications, will be granted.

Exhibit No. 12 covers violation in rate of 37½ cents per 100 pounds on canned goods, C. L., from Los Angeles to Exeter, distance 403 miles. High rate at intermediate point is 44½ cents at Seville, 388 miles from Los Angeles. The distance from Los Angeles to Exeter via the Southern Pacific Company is 242 miles and rate of 37½ cents is published between these points by that company. Since, therefore, the distance via applicant's line is 167 per cent of the distance via the line of its competitor, the Southern Pacific Company, this application covered by Exhibit No. 12 and similar applications will be granted.

Numerous exhibits were filed covering situations similar to those set forth above in explanation of Exhibits Nos. 9 and 12, wherein applicant is forced to meet via its longer and more circuitous route the rates established by its short line competitor, the Southern Pacific Company. All of these exhibits show that the distance via applicant's line varies from 110 to 210 per cent of the distance via the short line. This is considered sufficient justification for the violations and such applications will be granted.

In view of all the facts and circumstances appearing as hereinbefore set forth these applications will be granted until it may be otherwise ordered upon future investigation in particular cases, and applicant will be permitted to continue to charge lower commodity rates between the points where it meets short line and water competition and to maintain higher rates at the intermediate points as published in its tariffs.

This adjustment of nonintermediate rates is reflected at points beyond point of origin or destination, at points between point of origin

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or destination or at branch line points, by combination on some one or other of the low rates from or to points shown or on a progression of same; such combinations and progressions are sometimes published in or made by use of other tariffs than the one containing the low rates.

This practice is entirely justifiable and the granting of petitions containing such violations carries with it the authority to continue the application of such rates.

I therefore submit the following form of order:

ORDER.

The Atchison, Topeka and Santa Fe Railway Company (C. L.) having applied to this Commission for an order granting relief from the provisions of section 21 of article XII of the Constitution of California, and for authority to continue intermediate commodity rates that are higher than rates on the same commodity between more distant points, as set forth in the exhibits and tariffs referred to in the opinion which precedes this order, and a hearing having been held, and the Commission being fully apprised in the premises, and basing its conclusions on the foregoing findings of fact, as set forth in said opinion,

It is hereby ordered that the Atchison, Topeka and Santa Fe Railway Company (C. L.) and its connections, such connections arising from membership in the Pacific Freight Tariff Bureau, be and they are hereby authorized to continue commodity rates as set forth in the application and exhibits referred to in said opinion and maintain higher rates at intermediate points; provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter, except the application of the long and short haul clause of the State Constitution and the Public Utilities Act; and

It is further ordered that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals.

All the rates herein authorized are of course subject to complaint, investigation and correction if in conflict with any provision of the Constitution or of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

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DECISION NO. 3442.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILWAY COMPANY FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (*a*) OF THE PUBLIC UTILITIES ACT, RELATING TO INTERMEDIATE CLASS AND COMMODITY RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-G.

Decided June 19, 1916.

Applicant submits a list of rates at present in effect in violation of the provisions of the long and short haul clause, and upon a showing that certain of such rates are either compelled by water competition or are necessitated owing to the fact that a competing line is serving the same territory by a more direct or a considerably shorter line, which competition applicant is obligated to meet, permission to continue such rates in effect granted, excepting rate on lumber Stockton to Niles, which violation applicant was unable to justify, and its discontinuance is accordingly directed.

Allan P. Matthew, for the Western Pacific Railway Company, Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This proceeding is a continuation of the Commission's investigation into all violations of the long and short haul provisions of the Constitution of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions, it will not be necessary to here repeat the details.

The Western Pacific Railway Company, in compliance with the orders of this Commission, filed its applications requesting authority to continue all class and commodity rates which are in violation of section 21, article XII, of the Constitution, and section 24 (*a*) of the Public Utilities Act.

These rates are now published in applicant's local freight tariffs Nos. 36-C and 263, C. R. C. Nos. 108 and 126. All the violations contained in its tariffs are brought about by the publication of lower class or commodity rates to or from San Francisco, Oakland, or Western Pacific Mole on the one hand and either Stockton or Sacramento on the other than to intermediate points.

In justification of the violations, applicant filed with the Commission exhibits explanatory of the situations as they exist in the tariffs to which reference is made. These exhibits cover commodity rates only, it not being considered necessary to set forth the class rate situation between

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San Francisco, Oakland and Stockton, published in Tariff C. R. C. No. 108, as it is no different from that existing between the same points via the Southern Pacific Company and the Atchison, Topeka and Santa Fe Railway Company, which are covered in decisions rendered in Cases Nos. 214-A and 214-B, the low rates being identical, viz:

10 10 9 9 7 7 6 5¾ 5½ 5¼

The high rates at intermediate point are between San Francisco and Glass Works:

18 16 14 12 11 11 9 8¾ 8 6

In defense of this situation applicant refers to the fact that this low scale of rates is the same as published by the California Transportation Company and the California Navigation and Improvement Company, both of which companies operate a line of boats between San Francisco, Sacramento and Stockton and intermediate landings.

It is found that competition by boat lines operating on San Francisco Bay, Sacramento and San Joaquin rivers, is sufficient to influence and control the rates in the territory involved and, under the circumstances, the discrimination against the intermediate points is not considered unreasonable and applicant will be authorized to continue the low class rates to the more distant point and the present higher rates to intermediate points.

Exhibit No. 1, page 1 covers violation in rate of 5 cents per hundred pounds on bags and bagging, carloads, published in Tariff C. R. C. No. 108, applying between San Francisco, Western Pacific Mole and Oakland on the one hand and Stockton on the other. High rate at intermediate point is Lathrop, 11 cents per hundred pounds.

In defense of this low rate, applicant shows that rate of 5 cents is maintained between these points by the aforementioned boat lines and that such rate is necessary to meet the competition.

Page 1 of this exhibit also covers violation in rate of 10 cents per hundred pounds on beer, carloads, between San Francisco and Sacramento, and in justification applicant shows that a similar rate is in effect between these points via the boat lines and that they were forced to meet this water competition. High rate at intermediate point is 13 cents, Sacramento to San Leandro to Trevarno, inclusive.

Page 3 of this exhibit covers violation in rate of 6 cents per hundred pounds on lumber, carloads, and articles taking lumber rates, from Stockton to Niles, published in Tariff C. R. C. No. 108. High rate at intermediate point is 9 cents at Mayborg. Applicant could offer no justification for this violation and the granting of this item will therefore be denied.

Witness for applicant stated at the hearing that its tariff No. 36-C, C. R. C. No. 108, also contained three violations not shown in its

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exhibits which it would not attempt to justify and that supplement would be issued to the tariff, making the low rates applicable at intermediate stations, thus removing the violation. These three situations are as follows:

1. Item 345—rate of 5 cents per 100 pounds on canned goods, C/L, from Stockton to San Francisco and Oakland.
2. Items 400 and 405—rate of 7½ cents per 100 pounds on tin cans, in cases, C/L, between San Francisco and Stockton.
3. Item 1595—rate of 10 cents per 100 pounds on iron or steel, structural, C/L, from Sacramento to San Francisco.

In each of the three cases shown above a higher rate is charged at intermediate stations. As to the other items in the exhibit, the situations are exactly the same as the illustrations given herein for page 1, except as to the commodity moved. It will, therefore, not be necessary to burden this report with further details.

There is no doubt that the boat line competition between San Francisco and Oakland on the one hand and Stockton and Sacramento on the other is both active and controlling, and that the rail rates between the points in question have been established on a lower scale than they would otherwise have been were it not for the effect of the boat line competition.

It was further shown in regard to the low rates maintained between Sacramento and San Francisco and Oakland that the distance San Francisco to Sacramento via applicant's line is 160 per cent of the distance via the route of its short line competitor, the Southern Pacific Company, and that in all cases the low rates were necessary to meet the rates established either by the short line or boat lines.

With the understanding that violations hereinbefore referred to, for which no exhibit was made, will be removed from the tariff, I would recommend that these applications be granted, with the exception of the item covering lumber, Stockton to Niles, which should be denied.

It is understood that this adjustment of nonintermediate rates is reflected at points beyond point of origin or destination, at points between point of origin or destination or at branch line points, by combination on some one or other of the low rates from or to points shown, or on a progression of same and that such combinations and progressions are sometimes published in or made by use of other tariffs than the one containing the low rates. This practice is entirely justifiable where legitimately applied and the granting of petitions containing such violations carries with it the authority to continue the application of such rates.

I therefore submit the following form of order:

ORDER.

The Western Pacific Railway Company having applied to this Commission for an order granting relief from the provisions of section 21 of

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article XII, of the Constitution of California, and for authority to continue intermediate class and commodity rates that are higher than the class and commodity rates between more distant points, as set forth in the exhibits and tariffs referred to in the opinion which precedes this order, and a hearing having been held on these applications, and the Commission being fully apprised in the premises and basing its conconclusion on the findings of fact,

It is hereby ordered that the Western Pacific Railway Company be and it is hereby authorized to continue class and commodity rates as set forth in the applications and exhibits referred to in the opinion which precedes this order and maintain higher rates to intermediate points, with the exceptions noted in said opinion, provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter, except the application of the long and short haul clause of the State Constitution and the Public Utilities Act; and

It is further ordered that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals.

All the rates herein authorized are, of course, subject to complaint, investigation and correction if in conflict with any provision of the Constitution or the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

DECISION NO. 3443.

IN THE MATTER OF THE APPLICATION OF THE NORTHWESTERN PACIFIC RAILROAD COMPANY FOR THEMSELVES AND ON BEHALF OF CARRIERS PARTIES TO TARIFFS OF THE PACIFIC FREIGHT TARIFF BUREAU FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (*a*) OF THE PUBLIC UTILITIES ACT, RELATING TO INTERMEDIATE CLASS OR COMMODITY RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-II.

Decided June 19, 1916.

Applicant submits a list of rates at present in effect in violation of the provisions of the long and short haul clause, and upon a showing that all of such rates are either compelled by water competition or are necessitated owing to the

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fact that a competing line is serving the same territory by a more direct or a considerably shorter line, which competition applicant is obligated to meet, permission to continue such rates in effect granted.

Where a "low" rate has been established to meet water competition which has since disappeared, should such competition be, nevertheless, still potential, the continuation of such violation is justifiable.

J. J. Geary, for Northwestern Pacific Railroad Company, Applicant.

Seth Mann and *J. S. Willis*, for San Francisco Chamber of Commerce.

J. G. Melvin, for California Fruit Canners Association.

Walter H. Nagle and *Al Locke*, for Santa Rosa Chamber of Commerce.

C. Hachl, for Cloverdale Producers.

W. T. Hickok, for California Canneries Company.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner*.

This proceeding is a continuation of the Commission's investigation into all violations of the long and short haul provisions of the Constitution of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions it will not be necessary to here repeat the details.

The Northwestern Pacific Railroad Company, in compliance with the orders of this Commission, filed its applications for authority to continue all class and commodity rates published in its local freight tariffs which are in violation of section 21, article XII, of the Constitution, and section 24 (*a*) of the Public Utilities Act. In justification the applicant presented to the Commission numerous exhibits explanatory of the various violations as they exist in the tariffs to which reference is made.

Exhibit No. 1 covers the class rate situation between Eureka and other points located on Humboldt Bay, on the one hand, and San Francisco on the other, published in applicant's Local Freight Tariff No. 25-B, C. R. C. No. 176, wherein lower class rates are maintained between Humboldt Bay points and San Francisco than to intermediate points. Distance Eureka to San Francisco, 283 miles. Low scale:

1	2	3	4	5	A	B	C	D	E
60	51	45	39	33	33	30	27	24	21

The high intermediate point from Eureka is Ridgewood, 153 miles, and from San Francisco the high point is Kekawaka, 198 miles, class rates in each instance being:

117	103	96	84	72	72	62	56	50	43

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In defense of this situation applicant shows that the low rates between terminals are necessary to meet the existing direct and active water competition and refers to the fact that the North Pacific Steamship Company, Pacific Coast Steamship Company, the Nelson Line and a great number of so-called "tramp boats," operate in the territory described, carry all classes of freight at strongly competitive rate, as for example: $2.00 per ton, or 40 cubic feet ship's option, on general merchandise, less carloads, and much lower rates on shipments of larger quantities; they also have a rate of $1.50 per ton on northbound shipments of flour, grain, cement, coal, salt, sugar, etc.

Since existing water competition is sufficient to influence and control the rates between the points located on Humboldt Bay and San Francisco and points contiguous thereto, application covered by Exhibit No. 1 will be granted.

Exhibit No. 2 covers the violations existing in class rates between San Francisco and Tiburon, on the one hand, and Sebastopol on the other. Distance San Francisco to Sebastopol, 58.5 miles. Low scale:

23	16	13	12	11	11	10	9	8	7

High rates at intermediate points are:

Miles											
52.5	Santa Rosa ----25	18	15	13	12	12	12	11	10	9	
45.7	Kenilworth -----28	20	16	15	--	--	--	--	--	--	

In defense of this situation applicant shows that the low rates to Sebastopol are necessary to meet the competition of the short line rates via water and rail of the Petaluma and Santa Rosa Railway, which company operates a steamer between San Francisco and Petaluma in connection with its electric line Petaluma to Santa Rosa via Sebastopol. The distance from Petaluma to Sebastopol via applicant's line is 21.6 miles as against the 16.7 miles of the Petaluma and Santa Rosa Railway.

Inasmuch as mileage between Petaluma and Sebastopol via applicant's line is 130 per cent of the milege via its short line competitor, and active water competition exists in connection with such short line and is sufficient to influence and control the rates, application covered by Exhibit No. 2 will be granted.

Exhibit No. 3 covers violations in class rates between Shellville Junction and Sebastopol published in Local Freight Tariff No. 7-A, C. R. C. No. 33, the same low rates as well as the same rates to intermediate points being maintained as are set forth in Exhibit No. 2. Rates from Shellville Junction, a point of interchange with the Southern Pacific Company, have at all times in the past been kept on a parity with rates from San Francisco and Tiburon. This is an arrangement necessary to place San Francisco, Tiburon and Shellville Junction on the same basis in the making of through rates to Sebastopol in order to meet the

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competition of the Petaluma and Santa Rosa Railway with its boat line through San Francisco and the Atchison, Topeka and Santa Fe Railway via its barge line through Tiburon.

Distance to Sebastopol from Shellville Junction is 51 miles, from Tiburon 52 miles and from San Francisco 59 miles.

Application covered by Exhibit No. 3 will therefore be granted.

Exhibit No. 4 covers violations in class rates between Petaluma, Corona and Ely, on the one hand, and Sebastopol on the other, published in Tariff C. R. C. No. 33. Explanation of this situation is covered fully under Exhibit No. 2 herein. The distance, Petaluma to Sebastopol, via applicant's line being approximately 130 per cent of the distance via the line of its competitor, the Petaluma and Santa Rosa Railway, application covered by Exhibit No. 4 will be granted.

Exhibits Nos. 1, 2, 3 and 4 cover all the class rate violations. The other exhibits cover violations in commodity rates and since the situation is practically the same in each case, the only difference being in the commodity moved, it will not be necessary to here set out each individual violation. A few examples will be illustrative:

Exhibit No. 5 covers violation in rate on baskets, fruit or berry, less carload, from San Francisco to Sebastopol, of 16 cents per hundred pounds, published in Local and Proportional Freight Tariff No. 38, C. R. C. No. 194. High intermediate point is Kenilworth, rate being 21 cents per hundred pounds.

In defense of this rate applicant shows that via the line of its rail and water competitor, the Petaluma and Santa Rosa Railway, there is maintained a rate of 16 cents between same points. Application covered by Exhibit No. 5 will therefore be granted.

Exhibit No. 8 covers violation in rates on empty carriers (namely, boxes, butter, cheese and eggs; coops, poultry) returning from San Francisco to stations Petaluma to Sebastopol, inclusive, published in Tariff C. R. C. No. 194; these carriers are handled free returning, after having passed over the line with a paying load. To intermediate stations south of Petaluma regular rate of 15 per cent of the class rate on packages new is assessed.

In defense of this situation applicant shows that such empty packages are handled free via the line of its rail and water competitor, the Petaluma and Santa Rosa Railway, between the points in question. While the Commission does not approve of the present adjustment, it will permit the violation to continue until such time as the rate situation in this territory is adjusted in its entirety.

Application covered by Exhibit No. 8 will be granted.

Exhibit No. 10 covers violation in rate on cement, lime, plaster and powdered lime rock, carloads, from Petaluma to Sebastopol, of 5 cents per hundred pounds, published in Tariff C. R. C. No. 194.

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High rate at intermediate point is 7 cents per 100 pounds Petaluma to Santa Rosa. Justification being the same as set forth for Exhibit No. 2, this application will be granted.

Exhibit No. 11 covers violations in rate on clay products, carloads, published in Tariff C. R. C. No. 194, from San Francisco to Eureka, of 15 cents per hundred pounds.

High rate at intermediate point is 43 cents. San Francisco to Outlet. Same justification, water competition, is given by applicant as for Exhibit No. 1; application will be granted.

Exhibit No. 25 covers violation in joint rate of $1.00 per ton applying on cement, carloads, from Tolenas, Bay Point, Port Costa and Napa Junction to Petaluma via Shellville Junction or Tiburon and thence via applicant's line, published in Pacific Freight Tariff Bureau No. 16-B, F. W. Gomph's C. R. C. No. 101.

High rate at intermediate point is Novato, rate $1.30 per ton.

In justification of this situation it was shown that this "low" rate of $1.00 per ton was first published to meet actual water competition then existing between these points. While it is admitted that the boat line has since abandoned this service, the competition is still potential and may be resumed at any time. For further illustration of the principles herein involved we refer to the following cases:

Bainbridge Board of Trade vs. *L. H. & S. T. L. Ry. Co.*, 15 I. C. C. 586–594.

Kentucky Wagon Mfg. Co. vs. *I. C. R. R. Co.*, 18 I. C. C. 360–362.

Andley Hill & Co. vs. *S. Ry. Co.*, 20 I. C. C. 225–226.

The application will be granted.

Following is complete list of applicant's tariffs containing violations of the long and short haul provisions of the Constitution:

Local freight tariff	No. 7-A C. R. C. No. 33
Local and proportional freight tariff	No. 9-A C. R. C. No. 134
Local and proportional freight tariff	No. 12-A C. R. C. No. 140
Local and proportional freight tariff	No. 14-A C. R. C. No. 149
Local freight tariff	No. 10-A C. R. C. No. 158
Local freight tariff	No. 25-B C. R. C. No. 176
Local freight tariff	No. 33 C. R. C. No. 181
Local freight tariff	No. 31-A C. R. C. No. 188
Local and proportional freight tariff	No. 38 C. R. C. No. 194
Also:	
Pacific freight bureau tariff	No. 16-B, F. W. Gomph's C. R. C. No. 101

All of the violations contained in above named tariffs are set forth in the exhibits filed with the Commission, and a satisfactory explanation has been given by applicant showing that such violations are made necessary by reason of competition with water carriers and via a short line rail route. I recommend that authority be issued to continue the present rates in effect which are in violation of the Consti-

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tution and of the Public Utilities Act until it may be otherwise ordered upon future investigation in particular cases.

This adjustment of nonintermediate rates is reflected at points beyond point of origin or destination, at points between point of origin or destination, or at branch line points, by combination on some one or other of the low rates from or to points shown or on a progression of same; such combinations and progressions are sometimes published in or made by use of other tariffs than the one containing the low rates.

This practice is entirely justifiable and the granting of petitions containing such violations carries with it the authority to continue the application of such rates.

I therefore submit the following form of order:

ORDER.

The Northwestern Pacific Railroad Company having applied to this Commission for an order granting relief from the provisions of section 21 of article XII of the Constitution of California, and for authority to continue intermediate class and commodity rates that are higher than rates on the same class or commodity between more distant points, as set forth in the exhibits and tariffs referred to in the opinion which precedes this order, and a hearing having been held and the Commission being fully apprised in the premises, and basing its conclusions on the foregoing findings of fact,

It is hereby ordered that the Northwestern Pacific Railroad Company and its connections, such connections arising from membership in the Pacific Freight Tariff Bureau, be and they are hereby authorized to continue class and commodity rates as set forth in the applications and exhibits referred to in said opinion and maintain higher rates to intermediate points, provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter, except the application of the long and short haul clause of the State Constitution and the Public Utilities Act; and

It is further ordered that this authority will extend to rates from and to points more distant than the terminals between which violations are hereby authorized when combinations are made over the low rates at the terminals.

All the rates herein authorized are, of course, subject to complaint, investigation and correction if in conflict with any provision of the Constitution or of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

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Decision No. 3444.

IN THE MATTER OF THE APPLICATION OF THE PETALUMA AND SANTA ROSA RAILWAY COMPANY FOR RELIEF FROM THE LONG AND SHORT HAUL PROVISIONS OF SECTION 21, ARTICLE XII, OF THE CONSTITUTION OF CALIFORNIA, AND SECTION 24 (*a*) OF THE PUBLIC UTILITIES ACT, RELATING TO INTERMEDIATE COMMODITY RATES IN EXCESS OF RATES TO MORE DISTANT POINTS.

Case No. 214-I.

Decided June 19, 1916.

Applicant, in addition to certain violations justifiable under the ruling that a carrier operating over a longer route may establish rates to meet competition of a short line carrier serving the same territory, has in effect violations of the provisions of the long and short haul clause where it is the short haul carrier serving territory in competition with a carrier operating over a more circuitous route.

Held, That in an instance such as the present, where applicant renders an exceptionally efficient service, having loading platforms at short intervals where trainmen load and discharge less carload freight, it is justified in the collection of a higher rate to intermediate points. In addition applicant is entitled to consideration in that it operates a small road in competition with a far larger and stronger carrier. Permission to continue existing violations granted.

Edwin T. McMurray, for Petaluma and Santa Rosa Railway Company, Applicant.

Walter H. Nagle, for Santa Rosa Chamber of Commerce.

J. G. Melvin, for California Fruit Canners Association.

Report of the Commission.

Loveland, *Commissioner.*

This proceeding is a continuation of the Commission's investigation into all violations of the long and short haul provisions of the Constitution of the State as maintained at the present time in the tariffs published by the various common carriers. The history of the preliminary proceedings is fully set forth in Case No. 214-A, and as the instant case presents precisely the same questions it will not be necessary to here repeat the details.

The Petaluma and Santa Rosa Railway Company in compliance with orders from this Commission filed its applications for authority to continue all commodity rates now published in its Local Freight Tariff No. 9-C, C. R. C. No. 45, which are in violation of section 21, article XII, of the Constitution, and section 24 (*a*) of the Public Utilities Act.

In justification the applicant presented to the Commission thirteen exhibits explanatory of the violations as they exist in the tariff to which reference is made. I find that there are two separate and distinct situations existing which applicant is required to justify—one at Santa Rosa,

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the other at Sebastopol. One or two examples in each instance will be sufficiently illustrative, the Santa Rosa violations being considered first.

Exhibit No. 3 covers violation in rate of 75 cents per ton applying on feed, grain and poultry food, in less than carload lots, from Santa Rosa to Petaluma, a distance of 23.34 miles, while a rate of 90 cents per ton is assessed at points directly intermediate.

Exhibit No. 5 covers violation in rate of $1.65 per ton applying on flour, less carload, from San Francisco to Santa Rosa, while rate of $1.80 per ton is assessed at many intermediate points.

Exhibits Nos. 7 and 8 cover situations identical to Nos. 3 and 5, the only difference being in the commodities moved.

In defense of the violations existing in rates to and from Santa Rosa on the one hand and Petaluma or San Francisco on the other, applicant shows that via the line of its competitor, the Northwestern Pacific Railroad, the distance Petaluma to Santa Rosa is only 15.21 miles as against 23.34 miles via its line.

It would therefore appear that applicant is entirely justified in meeting the low rates established by its short line competitor at Santa Rosa and that the charging of higher rates at points intermediate is not unreasonable, since the distance via applicant's line is 153 per cent of the distance via the Northwestern Pacific Railroad. I will recommend that applications covered by Exhibits Nos. 3, 5, 7 and 8, and those covering similar situations, be granted.

Exhibit No. 13 covers violation in rate of $1.00 per ton on hops, in bales, any quantity, from Forestville to Santa Rosa, distance 13.88 miles. High rate at intermediate point is $2.00 per ton, Harbines to Santa Rosa, distance 13.15 miles.

In defense of this rate applicant shows that rate of $1.00 per ton is maintained from Forestville to Santa Rosa via the line of its competitor, the Northwestern Pacific Railroad, and that the distance via such line is 12.07 miles, and that the low rate is necessary to meet the competition. Since the distance via applicant's line is 115 per cent of the distance via the line of its competitor, this application covered by Exhibit No. 13 will be granted.

The following is explanatory of the situation as it exists at Sebastopol.

Exhibits Nos. 1, 2, 4, 6, 9, 10, 11 and 12 cover violations in rates on various commodities in less carload quantities applying to or from Sebastopol on the one hand and Petaluma or San Francisco on the other. Some of the above mentioned exhibits also cover violations to or from Santa Rosa, but since the situation as to violations to or from that point has been set forth and justified under explanation of Exhibits Nos. 3, 5, 7 and 8, a repetition will not be necessary.

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An illustration taken from Exhibit No. 1 will serve to show the situation at Sebastopol. The other exhibits enumerated cover situations substantially the same, the only difference being as to the commodities moved.

Exhibit No. 1 covers violation in rate of 75 cents per ton applying on feed, grain and poultry food, less carloads, from Petaluma to Sebastopol and Santa Rosa, while a rate of 90 cents per ton is assessed at points intermediate to Sebastopol. Distance via applicant's line Petaluma to Sebastopol is 16.65 miles and to Santa Rosa 23.34 miles; distance via Northwestern Pacific Railroad Petaluma to Sebastopol is 21.53 miles and to Santa Rosa 15.21 miles, applicant having the short line to Sebastopol and its competitor the short line to Santa Rosa.

The situation here presented as to the violations existing in rates to or from Sebastopol on the one hand and Petaluma or San Francisco on the other is comparable to none that I have ever heard of or have been able to find of record. Briefly explained it as follows:

The line of the Northwestern Pacific Railroad runs from Petaluma to Santa Rosa, thence at a right angle to Sebastopol, and taken with the line of the Petaluma and Santa Rosa Railway from Sebastopol to Petaluma, forms a triangle, the Northwestern Pacific Railroad being the base and perpendicular and the Petaluma and Santa Rosa Railway the hypothenuse. The rate of 75 cents per ton on feed, grain and poultry foods, in less carload quantities, as set forth in Exhibit No. 1, applies via both of these lines from Petaluma to Sebastopol. As is well known, one of the cardinal reasons for permitting departures from the prohibition of the long and short haul clause found in our Constitution, and also in the Public Utilities Act, is that of the long line meeting the competition of the short line, but in this instance the conditions are reversed. The Northwestern Pacific Railroad is the long line from Petaluma to Sebastopol and it makes the rate of 75 cents between these points with intermediate application. The Petaluma and Santa Rosa Railway with a shorter mileage makes the same rate from Petaluma to Sebastopol but charges higher rates to intermediate points.

The question for the Commission to decide is whether this can be justified. The Public Utilities Act gives to the Commission the power to permit departures from the long and short haul prohibition but names no reasons which must be depended upon for justification for such departures, thereby leaving the decision to the judgment of the Commission. Ordinarily we would at once declare that the short line meeting rates of a long line at common points must make such rates applicable at intermediate stations, but the situation and conditions surrounding the present case are not ordinary. To illustrate: the mileage of the Petaluma and Santa Rosa Railway is 30.5; along this distance

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the company has established forty-five freight stations with platforms for the handling of less carload shipments for the convenience of its patrons. These stations are from one-half mile to one mile or one and one-half miles apart, and as a witness for applicant testified "platforms erected in the back yards of the shippers and receivers of freight." Farmers living along or contiguous to the line instead of hauling their produce long distances have but short distances to drive, leaving the produce at these stations where it is handled by employees of the company. This is a great convenience, saving time and preventing injury to consignments, especially to fruit and vegetables. This method of handling less than carload freight is expensive for the company and constitutes what I consider a higher and better service than is given where the stations are far apart and where farmers are required not only to team their products long distances but also to load same into the cars.

There is still another reason which it seems to me goes far towards justifying the Petaluma and Santa Rosa Railway Company in continuing its higher intermediate charges at points between Petaluma and Sebastopol. It is not only the case of a short line meeting the competitive rates of a long line but in reality is the case of the weak line meeting the competition of the strong line. The Northwestern Pacific Railroad, the strong line in this territory, has a system extending from San Francisco to Eureka, a distance of approximately 284 miles, and from San Francisco to Cazadero, a distance of approximately 84 miles, with various branches, and therefore is not entirely dependent upon any low competitive rate for proper returns upon its investment.

The Petaluma and Santa Rosa Railway Company, on the other hand, has a total of but 30.5 miles and a large amount of its business is between Petaluma and Sebastopol, while on its entire line it has to contend with the larger and stronger competitor.

There is nothing in this record to show that the intermediate rates of the Petaluma and Santa Rosa Railway under consideration are unreasonable. It was testified at the hearing of the applications that the patrons of the Petaluma and Santa Rosa Railway along the line between Petaluma and Sebastopol are entirely satisfied to pay the higher intermediate rates in return for the additional and better service. I realize that holding that such service justifies the charging of higher rates to intermediate points is something for which I can offer no precedent, but after a careful consideration of the matter I am satisfied and shall recommend that the Commission find the Petaluma and Santa Rosa Railway Company justified in charging the higher rates to intermediate points. I believe that this finding is in the interest of public policy.

While, as above stated, we have found no precedent among the decisions of other commissions, our decisions in Case 214-C, California

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Navigation and Improvement Company, and 214-D, California Transportation Company, are somewhat analagous in that we found therein that boats plying between San Francisco and Stockton and between San Francisco and Sacramento stopping at intermediate landings were justified in charging higher rates to such intermediate landings for the reason that it is a more expensive service. This finding is upon the statement of facts obtained in this case only and establishes no precedent for other cases unless the circumstances and conditions are similar and the same reasons can be advanced for justifying departures from the long and short haul prohibitions.

In view of all the facts and circumstances appearing as hereinbefore set forth, these applications will be granted until it may be otherwise ordered upon future investigation in particular cases. Applicant will be permitted to continue to charge lower commodity rates to and from Sebastopol and Santa Rosa and to maintain higher rates at points intermediate as now published in its tariffs.

I therefore submit the following form of order:

ORDER.

The Petaluma and Santa Rosa Railway Company having applied to this Commission for an order granting relief from the provisions of section 21, article XII, of the Constitution of California, and for authority to continue intermediate commodity rates that are higher than the commodity rates between more distant points, as set forth in the exhibits and published in tariff referred to in the foregoing opinion, and a hearing having been held on these applications and the Commission being fully apprised in the premises, and basing its conclusions on the findings of fact set forth in the opinion which precedes this order,

It is hereby ordered that the Petaluma and Santa Rosa Railway Company be and it is hereby authorized to continue commodity rates as set forth in the applications and exhibits referred to in the opinion and maintain higher rates to intermediate points; provided that this authorization shall not be construed to pass on the reasonableness of the intermediate rates or any other matter except the application of the long and short haul clause of the State Constitution and the Public Utilities Act.

All the rates herein authorized are, of course, subject to complaint, investigation and correction if in conflict with any provision of the Constitution or of the Public Utilities Act.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

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DECISION NO. 3445.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF YUBA, STATE OF CALIFORNIA, FOR PERMISSION TO CONSTRUCT A ROAD ACROSS THE WESTERN PACIFIC RAILWAY COMPANY'S TRACKS IN SAID COUNTY.

Application No. 2192.

Decided June 19, 1916.

Applicant granted permission to construct a crossing at grade across the tracks of Western Pacific Railway Company, such crossing to be constructed at the expense of applicant; provided that a crossing now open, known as the Larabee Crossing, three-quarters of a mile north of the proposed crossing, shall be closed to traffic.

Roy Manwell, for Applicant.

R. W. Macdonald, for Western Pacific Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was made on April 7, 1916, under section 43 of the Public Utilities Act, and a public hearing was held at Marysville on June 7, 1916.

The crossing covered by this application is located on an east and west road, partially graded, near the center of the subdivision known as the Olivehurst Tract, in section 5, township 14 north, range 4 east, Mount Diablo base and meridian, and about three miles south of Marysville. The roads shown on the subdivision map filed with the application were accepted unanimously as county roads by the board of supervisors May 5, 1915, according to the minutes of the meetings of the board.

The site of the crossing asked for is in an open country with unobstructed view in all directions. The top of the railroad rails are about five feet above the road at the right of way line. This crossing if opened will allow the above mentioned east and west road to connect the state highway on the east side of the subdivision with the old Marysville-Sacramento county road on the west side of the subdivision. The state highway runs northwest and southeast at this point and the old Sacramento road runs north and south. The junction point of these two roads is just about a mile and a quarter north of the proposed crossing and on the east side of the Western Pacific Railway Company's tracks, the Western Pacific crossing the old Sacramento road about three-quarters of a mile north of the crossing asked for.

This crossing of the railroad with the old Sacramento county road is practically at the point of tangency of a one degree curve and is an exceedingly dangerous one, being on the extremely acute angle of 8

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degrees 46 minutes, and having long approaches of from 2 per cent to 4 per cent grade over the eight-foot fill of the railroad. The acuteness of the angle of crossing places vehicles within striking distance of the train when almost thirty feet from the center of the crossing. The height of the fill and the curve in the track obstruct the view unless one stands up in his wagon, according to the testimony of one of the witnesses. Witness also stated that when he sent his children to school over this crossing he was never sure that he would see them alive again. A man named Larabee was killed on this crossing about three years ago and the railroad company is now facing a seven thousand dollar damage suit in the Supreme Court.

The crossing applied for would allow all travelers on the old Sacramento county road to turn east over a relatively safe crossing to one of the roads in the Olivehurst Tract, whereby they could reach the state highway either by continuing straight on to the east or by turning north over the road through the center of the tract, thus doing away with the necessity of using the existing crossing above mentioned.

A county road is contemplated from the Spenceville road some miles to the east, west across the track of the Southern Pacific Company to the state highway, practically in an east and west line with the road leading to this crossing. These two roads as contemplated would give a road clear across the county from the foothills to the river.

The country surrounding this crossing, as well as the Olivehurst Tract itself, is as yet unsettled, and it would appear that public convenience and necessity does not require more than one crossing in this vicinity.

The Western Pacific Railway in opposing the granting of this application, stated that it would be feasible to construct a road parallel with and along the east side of its right of way and by making a connection with the Sacramento road north of the existing crossing give to the Olivehurst tract access to both the old Sacramento road and the state highway without the necessity of an additional crossing. They also objected to the crossing as an additional hazard.

After due consideration of the evidence I recommend the following form of order:

ORDER.

Yuba County, California, having applied to the Commission for permission to construct a public road at grade across the track of the Western Pacific Railway Company in the Olivehurst Tract, section 5, township 14 north, range 4 east, Mount Diablo base and meridian, as shown on the map attached to the application, and a public hearing having been held, and it appearing that the application should be granted subject to certain conditions,

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It is hereby ordered that permission be and the same is hereby granted Yuba County, California, to construct a public highway crossing at grade over the tracks of the Western Pacific Railway at the point and in the manner applied for, subject to the following conditions and not otherwise, viz:

1. The entire expense of constructing the crossing shall be borne by the applicant.

2. The expense of maintaining the crossing up to a line two (2) feet outside the rails of the Western Pacific Railway Company shall be borne by applicant. The expense of maintaining the crossing between the rails and to a line two feet outside thereof shall be borne by the Western Pacific Railway Company.

3. The crossing shall be constructed of a width not less than twenty-four (24) feet and with grades of approach not exceeding four (4) per cent, shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

4. The county road through the Olivehurst Tract from the old Sacramento road to the state highway on which this crossing is located shall be increased in width from forty (40) feet as shown on the map of the tract filed with the application, to sixty (60) feet in width in order to correspond with the other roads of the tract.

5. That the present crossing of the old Sacramento-Marysville county road with the Western Pacific Railway Company, known locally as the "Larabee Crossing," about three-quarters of a mile to the north of the crossing applied for, shall be legally abandoned as a public road and fenced and closed to travel contemporaneously with the opening of the crossing herein authorized.

6. That if the above conditions of this order are not fulfilled within six months from date the Commission will revoke the permission herein granted.

7. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

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DECISION NO. 3446.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE PURCHASE OF CAPITAL STOCK OF OCEANSIDE ELECTRIC AND GAS COMPANY.

Application No. 2290.

Decided June 19, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

It is hereby declared that on June 16, 1916, San Diego Consolidated Gas and Electric Company filed herein a stipulation, duly authorized by its board of directors, and in form satisfactory to the Railroad Commission, declaring that San Diego Consolidated Gas and Electric Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, any value for the franchises and permits of Oceanside Electric and Gas Company in excess of the actual cost of acquiring said franchises and permits, which cost is reported by San Diego Consolidated Gas and Electric Company to have been the sum of twenty-five dollars ($25.00).

Dated at San Francisco, California, this 19th day of June, 1916.

DECISION NO. 3447.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOS ANGELES AND THE BOARD OF PUBLIC SERVICE COMMISSIONERS OF THE CITY OF LOS ANGELES, THAT THE RAILROAD COMMISSION DETERMINE THE TERMS, CONDITIONS AND MANNER OF CROSSING THE HIGH VOLTAGE POWER LINE OF THE PACIFIC LIGHT AND POWER CORPORATION BY THE PROPOSED HIGH VOLTAGE POWER LINES OF THE CITY OF LOS ANGELES.

Application No. 2277.

Decided June 19, 1916.

Upon application of the City of Los Angeles, the Commission proceeds to determine the method of crossing and the details of construction of applicant's high voltage transmission line with the transmission line of Pacific Light and Power Corporation.

Held, That in crossings of this nature the more important line is entitled to the position of least hazard irrespective of the priority of construction. In ordinary crossings adequate clearance and proper safety devices are all that is required; in the present case, however, aside from the importance of the lines, the difficulty of making repairs and the consequent length of interruptions warrants the additional measures taken and the attendant expenditures.

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Rules governing construction prescribed providing for a safety factor of not less than three against mechanical failure based on the ultimate strength of material under the assumed worst conditions of loading.

W. B. Mathews, W. B. Himrod and *Lewis Whithead,* for City of Los Angeles.

Gibson, Dunn & Crutcher and *S. M. Haskins,* for Pacific Light and Power Corporation.

H. H. Trowbridge, Harry J. Bauer and *E. W. Cunningham,* for Southern California Edison Company.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application of the City of Los Angeles and the board of public service commissioners of the city of Los Angeles requesting this Commission to determine and fix the character of construction and the location of each line at a crossing of the proposed power lines of the city of Los Angeles with the "Big Creek" lines of the Pacific Light and Power Corporation.

Applicants have under construction a steel tower transmission line from their hydroelectric generating plant located in San Francisquito Canyon (section No. 27, township 6 north, range 15 west) to the city of Los Angeles. This line will have a total length of approximately 47 miles. The proposed route, for which rights of way have been secured, traverses the mountainous country north of San Fernando Valley in a direction almost due north and south. It enters the valley for a few miles north of San Fernando, at which point the proposed crossing is located. The Pacific Light and Power lines also enter the valley in this vicinity, but occupy the ridges along its eastern slope, which they parallel into the main substation located at Eagle Rock.

The city contemplates a comprehensive development of hydroelectric power along the aqueduct and in the watershed of the Owens River. The ultimate plan provides for seven plants of a total capacity of 138,000 kilowatts, and four 110,000 volt circuits carried on two tower lines. The length of transmission from these plants to Los Angeles will vary from 24 to 270 miles. It is expected that the load supplied will be primarily lighting.

The initial development which is rapidly approaching completion comprises a partial installation in San Francisquito Plant No. 1, one tower line supporting two 110,000 volt circuits, and a receiving substation in Los Angeles. The capacity of San Francisquito No. 1, when completely installed, will be 55,000 kilowatts. Although but one line is to be constructed at present the right of way has been obtained for both lines, which will have a lateral separation of 100 feet. It is desired by applicants that provision be made for a crossing of both

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lines, and all suggested plans contemplate a crossing with two of the city's lines.

The transmission line as designed consists of two circuits of three 300,000 circular mils stranded copper cables, supported, three on each side, in vertical planes, by steel towers. The height of the standard tower is 76 feet over all, 50 feet to the lowest crossarm, the vertical separation of conductors being 10 feet and the horizontal 16 feet. The towers will normally be spaced 650 feet apart, except in crossing ravines where longer spans can be employed to advantage. The second line will be a duplicate of the first.

The Big Creek development of the Pacific Light and Power Corporation, as at present installed, is as follows: Two power plants, which have a capacity of 32,000 kilowatts each, located on Big Creek in the mountains east of Fresno, and two steel tower lines, 240 miles long, transmitting energy from the power plants to a substation in Eagle Rock where the voltage is reduced for secondary transmission and local distribution. Each line consists of one 3-phase circuit of aluminum, steel core cables of 683,500 circular mils cross-section, carried in a horizontal plane. The normal operating line voltage is 150,000.

The lines occupy a private right of way 150 feet wide, normal separation being 82 feet and normal longitudinal spacing being 660 feet. In the mountainous country, however, longer spans are used, the maximum being 2,871 feet. The height of standard towers is 47 feet over all.

The topography in the vicinity of the proposed crossing is rugged. A deep ravine known as Grapevine Canyon lies in a general northeast-southwest direction between two ridges which project southwestward into the valley from the main range of hills lying north and south. As originally located, these lines would cross near the easterly side of Grapevine Canyon at an angle of approximately 30 degrees, the city's lines paralleling the bed of the ravine and those of the power company crossing it diagonally from northwest to southeast. The spur range on the southeast side of this canyon is known as Mustard Ridge. It extends southwestward several hundred yards from the main range and is quite steep, and narrow at the summit, so that it is necessary to excavate in order to provide proper footings for towers. Two towers of the Big Creek line are located on the crest of this ridge near the eastern extremity. The proposed right of way of the city's line also contemplates two towers on this same ridge about 300 feet farther west. A steep promontory extends into the ravine near the center of the crossing span of the Big Creek line, thus reducing the side clearance of the east line considerably at this point. The land in the vicinity of the proposed crossing is controlled by the Standard Oil Company. It is largely a decomposed oil shale and affords a rather insecure foundation on steep slopes.

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For several months prior to the filing of this application, informal negotiations were conducted by engineers representing the city, the power company and the Commission in an endeavor to devise a crossing which would be mutually satisfactory. During this period several alternative types of construction were proposed and investigated. The following is a brief description of these, given in the order in which they were advanced:

1. Simple overhead crossing, city's lines above power company's lines. Routing of lines—company's lines same as at present constructed, city's lines in accordance with original right of way.

2. Simple overhead crossing, as in No. 1, except that the crossings are located in adjoining spans. Both city lines to cross power company's east line in Grapevine Canyon and to cross power company's west line in the span immediately south of Mustard Ridge. This involves the relocation of the power company's west line; about 8,800 feet of it being shifted laterally westward a distance of some 600 feet. It introduces about 13 degrees of additional angularity in this line. Cost, estimated by city's engineers, $2,500.00.

3. Power company's lines, crossing over city's lines, the latter to occupy a steel frame skeleton structure supporting and protecting them. Power company's lines to remain in present position. Structure situated on any one of several possible locations. Structure designed to effectually prevent possibility of contact upon failure of upper line and to permit working on either line without interfering with operation of the other. Considerable additional angularity would be introduced in the city's lines by this scheme. Approximate dimensions of structure, 150′ by 52′ by 30′. Cost of structure, $10,000.00 (estimated by power company's engineers).

4. Crossing to be made in a steel structure located on Mustard Ridge midway between the present location of the power company's lines and the proposed original location of the city's lines. Structure to be jointly occupied by lines of both parties and complete crossing to be made inside of structure. Clearance to be sufficient to permit working on either line while other is energized. Approximate dimensions of structure, 150′ by 57′ by 40′. Approximate cost, $8,000.00 (estimated by Commission's engineers).

5. (*a*) Crossing of power company's lines over city's lines, each line supported by separate tower structures, located on Mustard Ridge. Power company's lines to be shifted a short distance west and raised so as to permit city's line to cross underneath. Tower of city's east line located between power company's towers. Towers of corresponding lines of each concern placed as close together as practically possible to minimize distance to point of crossing from support. Slight additional angularity introduced into each line.

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(*b*) Same as 5 (*a*), except that the four lines occupy two joint structures on Mustard Ridge, each structure supporting one city and one power company line.

(*c*) Power company's lines cross over city's lines. Tower locations same as in No. 1. Power company's lines raised sufficiently to permit city's lines crossing underneath.

The above schemes were proposed before the filing of this application. Subsequent thereto Mr. Barre, engineer for the power company, suggested another proposition, which we shall designate as No. 6, as follows:

6. Rerouting of both of the city's lines so as to permit power company's lines, occupying their present position, to cross over the city's lines in separate spans. This plan is identical in principle with No. 2 above, except that the positions of the two lines relative to each other are reversed. This scheme would increase the angularity of the city's east line about 100 degrees, and that of the west line about 70 degrees. Both of the city's lines to be diverted toward the west at points several spans north of Mustard Ridge, and to cross under the power company's lines, thence southward paralleling the power company's lines to towers on Mustard Ridge near the original location.

Of the above propositions the first two were proposed by the city's engineer in the order named, the third and sixth, by the power company's engineer, and the fourth and fifth by the Commission's engineers. From an examination of the above, it will be noticed that these plans provide protection increasing in the following order:

No. 1 and No. 5 (*c*)—No protection against complete shut-down in case of failure of any conductor of the upper lines.

No. 5 (*a*) and (*b*)—Somewhat greater protection but still possibility of complete shut-down.

No. 2 and No. 6—Elimination of the hazard of complete interruption of service attending the foregoing schemes unless the upper lines should fail simultaneously in the two crossing spans, also permits working on either upper line and the installation of the crossing without interruption of service.

No. 3 and No. 4—These provide practically perfect protection.

At the time of the hearing of this application, the problem had resolved itself to a consideration of Propositions No. 2 and No. 6, the others having been eliminated for various reasons. No. 1 and No. 5 (*c*) were discarded as affording insufficient protection. No. 5 (*a*) and (*b*), upon investigation, were found impracticable on account of the proximity of the power company's east line to the hillside and the necessary excessive height of towers for both power company's lines. No. 3 and No. 4 were abandoned because it was concluded that the additional protection obtainable would not warrant the large expenditure required.

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Hearings were held on this application in Los Angeles on May 24th and 25, 1916, Mr. E. F. Scattergood, electrical engineer for applicants, in his testimony advocated the adoption of Scheme No. 2. He stated that the configuration of the ground at the point of crossing is such as to place the city's lines naturally in the upper position; that the city originally intended to construct a simple crossing over the power company's lines, as described in Scheme No. 1 above, but this was objected to by the company's engineers and Scheme No. 2 was evolved to meet this objection. While admitting that the upper position is inherently more desirable from the standpoint of operating hazard, he contended that the possibility of failure of any of the conductors is extremely slight with construction such as is to be employed in the city's lines. As illustrating this point he cited the experience of the Pacific Light and Power Corporation in operating the Big Creek lines, a single failure having been reported during more than two years operation. He testified that his estimate of the cost of Scheme No. 2 was $2,500.00 to $3,000.00, the plan being to construct the relocated line of new materials, thus permitting both lines to remain in service except while making transfer connections.

Prof. W. F. Durand, who has been associated with two other engineers as a consulting board in the design of the city's power system, was called by the city as a witness. In general his testimony corroborated that of Mr. Scattergood. He stated that he had endeavored to treat this matter as an engineering problem, independent of the contentions of the two parties to the controversy, and, after giving consideration to all the physical conditions, concluded that Scheme No. 2 would realize the condition of minimizing hazard of interruption and provide the best solution to the problem from the standpoint of all parties concerned. He contrasted Scheme No. 2 with Scheme No. 6, stating that the former would provide substantially as good a position for the power company's west line as that now occupied; that although the total angularity is increased some 13 degrees, it is distributed over several angles, while the maximum angle is decreased 9 degrees. In regard to Scheme No. 6, he testified as follows:

> "The only other alternative which seems possible would involve a separation of the lines of the aqueduct power; but, in my opinion, the physical characteristics of such construction, the topography and the other conditions which are presented would be distinctly less favorable for such a line than is the proposed construction for the lines of the Pacific Light and Power Corporation. I should be, therefore, led to favor for this problem as a whole and considered as a piece of engineering construction, the general arrangement proposed on drawing O-188, City's Exhibit A."

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Regarding the danger of interruption of service on both lower lines under Scheme No. 2, he stated:

> "Under the proposed plan there would be the elimination of any such possibility; at least, it is removed out of the bounds of any reasonable probability."

The power company called as chief witness Mr. H. A. Barre, its electrical engineer. His testimony was to the effect that the hazard would be material under Scheme No. 2 and this he attributed to the following:

> "To my mind, that hazard occurs more particularly from the insulator failure and the human element than it would from any possibility of strength of towers. I think that towers can be constructed strongly enough to hold the wires. I think foundations can be secured to develop the strength of the towers."

This witness made an extemporaneous estimate of the cost of Scheme No. 2 at $4,000.00 to $5,000.00.

No estimates were submitted of the cost of Scheme No. 6. Mr. Barre stated, however, that in addition to rerouting the city's lines it would necessitate raising two of the power company's towers by substituting for them anchor towers and heavier foundations.

The question of priority of occupation was not made an issue by either of the parties.

After analyzing the evidence submitted herein, both as contained in the testimony of the several witnesses, and the other information pertaining to the physical conditions involved in this crossing, it appears that the construction as embodied in Scheme No. 2 is the most desirable, viewed from the standpoint of both parties and the public. In reaching this conclusion I have given consideration to several factors, among which are: Minimizing the hazard of complete interruption to service on either power system; the design of a crossing requiring an expenditure commensurate with the value of the safety obtainable, as measured by the magnitude of the load and importance of the service supplied by each line; the existence or nonexistence, in each case, of a reserve source of power; the topographical conditions in the vicinity of the crossing as affecting the location of each line; the loss occasioned by a complete discontinuance of service over these lines, due, either to failure of the upper line, construction of the crossing, or repair work on the upper line; and the degree of hazard obtaining with a crossing of these lines, considering the character of construction employed and the adequacy of mechanical and electrical safety factors.

I am aware that, in crossings of other transmission lines, where the conditions of load and service are comparable, no special precautions have been observed other than the provisions of adequate clearance and

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proper safety factors. In this case, however, aside from the importance of either line, the difficulty of making repairs, and the consequent length of interruption, should failure occur, appear to warrant the additional measures and attendant expenditure provided by Scheme No. 2.

The power company made the point that the more important line should have the less hazardous position regardless of which line is first in place. As a general proposition I am inclined to agree with this view; however, in this case it appears, considering the future development contemplated by applicants, that there will be little to choose between the two transmission systems in the matter of importance.

Regarding the distribution of the cast of Scheme No. 2, it was agreed by both parties that, in the event this plan were adopted, the work on the power company's lines should be done by it and the cost thereof should be borne by the city.

In an overhead crossing of this type it is most essential that the clearance and safety factors be ample. Accordingly I recommend that the city's lines at this crossing conform to the specifications set out in the form of order herewith submitted, which have been tentatively adopted by this Commission as supplementing its General Order No. 26, the latter containing no provision applicable to tower line construction. These regulations provide for a safety factor of not less than 3, against mechanical failure based on the ultimate strength of material under the assumed worst conditions of loading. The provisions regarding temperatures, wind velocities and ice loads are so worded as to permit the application of local climatological conditions. The proposed design of the city's lines and structures involved in this crossing have been checked by engineers of this Commission and the power company, both as regards clearance and safety factors under the conditions set forth in these specifications and found to comply therewith, with the exception of but two members. In regard to the two members above mentioned—the conductor clamp and strain insulator equalizing yoke, it was stipulated by the city's engineers that suitable special devices would be designed for use on this crossing, to have a safety factor of not less than 3.

ORDER.

Application having been made by the City of Los Angeles and the board of public service commissioners of the city of Los Angeles, for an order determining and fixing the character of construction and location of electric power lines of said city to be constructed across the electric power lines of the Pacific Light and Power Corporation, and a hearing having been had,

It is hereby ordered by the Railroad Commission of the State of California that the electric power lines of the city of Los Angeles may be constructed across the electric power lines of the Pacific Light and Power

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Corporation in Grapevine Canyon and south of Mustard Ridge, Los Angeles County, in accordance with the plan described in the foregoing opinion as Scheme No. 2, and which is delineated in applicant's Exhibit "A," and provided that applicant's electric power lines at this crossing shall conform to the following specifications:

Clearances.

1. That under the most unfavorable conditions of temperature and loading and with the conductor broken in any adjacent span the minimum clearance of steel tower transmission lines over highway shall be not less than thirty (30) feet above any other electric power, telegraph, telephone or signal circuit, nor less than eight (8) feet at the maximum temperature defined in paragraph 4 (*a*) (1) below, plus 25°, provided that in no case shall a temperature less than 120° F. be used in determining the deflection.

Construction. Factors of Safety.

2. The factors of safety in crossing spans shall be understood to be the ultimate unit stress divided by the allowable unit stress and shall be not less than the following:

Conductors	3
Ground wire	3
Insulators, insulator supports and conductors clamps	3
Guys and messengers	3
Structural steel	3
Foundation depression	3
Foundation uplift	3

Temperature, Wind and Ice Conditions.

3. (*a*) The maximum temperature mentioned hereafter shall be understood to be the highest (observed in the shade) which ever existed in the vicinity of the crossing.

(*b*) The maximum wind velocity mentioned hereafter shall be understood to be the maximum which ever existed (at exposed points) in the vicinity of the crossing.

(*c*) The maximum ice covering mentioned hereafter shall be understood to be the greatest which ever existed in the vicinity of the crossing at exposed points.

(*d*) The minimum temperature mentioned hereafter shall be understood to be the minimum which ever existed in the vicinity of the crossing (same elevation) at exposed points.

In the absence of sufficient definite data in regard to the above extremes, the assumption used shall lie within the limits hereinafter specifically prescribed.

Loading.

4. (*a*) The different portions or units of the crossing span shall each be designed to withstand, with the above designated factors of safety, the following conditions of loading, at the minimum temperature defined above, minus 5°, provided that in no case shall a temperature in excess of 10° F. be used, unless continuous official climatological records from the three nearest observation stations of corresponding altitude should

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justify the use of a higher temperature. The conductors and ground wires shall be considered as uniformly loaded throughout their length, with a load equal to the resultant of the dead load and a wind pressure over the projected area of conductors, due to the maximum velocity as defined in paragraph (3) (*b*) plus ten (10) miles per hour, provided that in no case shall a velocity less than fifty (50) miles per hour (actual) be used in computing this pressure.

(*b*) The ice load shall be determined from the maximum ice covering as defined in (3) (*c*) above, provided that in no case shall a thickness less than one-fourth (¼) inch be used in computing this load at elevations exceeding 2,500 feet above sea level, nor less than one-half (½) inch at elevations exceeding 3,500 feet. This load (4) (*a*) shall be equal to the weight of conductor and suspended ice (at 57 pounds per cubic foot) and the wind pressure as determined in (4) (*a*) on the projected areas of conductors and ice covering.

(*c*) *Insulators, Clamps, Etc.* Insulators, supports, clamps and miscellaneous attachments including guys and messengers shall be designed to withstand, with the designated factors of safety, the tension in conductors, wires or structures under the maximum loading.

(*d*) *Towers.* The towers and foundations shall be designed to withstand, with the above designated factors of safety, the combined stresses from their own weight; the wind pressure on the tower and the above designated wire loading on the crossing span and next adjoining span on each side. The wind pressure shall be determined as in (*a*) and considered as applied over an area one and three-quarters (1¾) times one side of the tower, provided that in no case shall a velocity less than fifty (50) miles per hour be used in calculating such pressure.

(*e*) *Foundations.* Foundations shall be designed to prevent overturning due to depression or uplift under the most unfavorable conditions of loading, as hereinabove mentioned. The weight of concrete shall be assumed to be 140 pounds per cubic foot and the weight of "earth" (calculated at 30° from the vertical) shall be assumed to be 90 pounds per cubic foot. The back fill shall be thoroughly tamped in approximately eight (8) inch layers.

(*f*) *General.* The towers, foundations, insulators, supports, clamps and miscellaneous attachments shall be designed to withstand, with the above designated factors of safety, the hereinabove specified loads combined with the unbalanced tension due to the breaking of two (2) conductors for towers carrying four (4) or less three (3) conductors for towers carrying five (5) to eight (8).

Splices.

5. The conductors shall not be spliced in the crossing span nor in the adjoining span on either side, except when such splice shall develop a tested strength and conductivity equal to or in excess of those of the uncut conductor, and excepting further that a splice may be introduced in the unstressed or slack portion of conductor between anchor clamps.

Insulator Supports.

6. Double insulator supports with separate suspension clamps shall be provided for suspending each conductor from the towers supporting the crossing span. The two suspension clamps shall be spaced not less than 24 inches apart longitudinally.

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Alternative Construction.

7. In case the allowable maximum mechanical tension in the conductors can not be made to conform to the factors of safety hereinabove specified, or the minimum clearances hereinabove mentioned be maintained without additional support, insulated messenger wires may be installed over each conductor and the conductor suitably supported therefrom at such intervals as will, in the event of a broken conductor in the crossing span, or in case undue slack is otherwise introduced, support the conductor in the crossing span and prevent its coming in contact with other lines or wires or materially reducing the minimum clearance over the roadway as specified above.

Angles at Crossings.

8. Unless ample provision is made to insure the necessary additional strength to withstand angle strain the towers supporting the crossing span and the adjoining span on each side shall be in a straight line to avoid unnecessary strains at this point.

Location of Towers.

9. One tower of each crossing shall in every instance be located as near the roadway as possible.

Electrical Performance of Insulators. Flashover Requirements.

10. (*a*) The assembled insulator chain, when clean and dry, shall have a flashover voltage not less than the following:

Line voltage	Flashover voltage
Exceeding 9,000 but not exceeding 14,000	65,000
Exceeding 14,000 but not exceeding 27,000	100,000
Exceeding 27,000 but not exceeding 35,000	125,000
Exceeding 35,000 but not exceeding 47,000	150,000
Exceeding 47,000 but not exceeding 60,000	180,000
Exceeding 60,000	three times line voltage

The assembled insulator chain, subjected to a precipitation of water of one-fifth of an inch ($\frac{1}{5}''$) per minute, at an inclination of forty-five degrees (45°) to the axis of the insulators, shall have a flashover voltage of not less than:

Line voltage	Flashover voltage
Exceeding 9,000 but not exceeding 14,000	40,000
Exceeding 14,000 but not exceeding 27,000	60,000
Exceeding 27,000 but not exceeding 35,000	80,000
Exceeding 35,000 but not exceeding 47,000	100,000
Exceeding 47,000 but not exceeding 60,000	120,000
Exceeding 60,000	twice the line voltage

NOTE.—The above are prescribed for suspension or disc type insulators; when the pin or fixed type of insulator is used, the same minimum flashover voltages shall be required for each assembled and cemented insulator.

Test voltages above 35,000 volts shall be determined by the A. I. E. E. standard spark-gap method.

Test voltages below 35,000 volts shall be determined by transformer ratio.

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(*b*) *Puncture.* Each insulator unit shall be so designed that, subjected to excessive potential stress, failure will first occur by flashover and not by puncture.

(*c*) *Protection from Arcing.* The insulator chain, as installed, shall be adequately protected against destruction from arcing by properly designed and located discharge gaps.

(*d*) *Elimination of Defective Units.* Each insulator unit, when clean and dry, shall be subjected to the following tests in the order named. Units which do not meet these requirements shall be rejected.

The unit shall be stressed mechanically by a pull of not less than 5,000 pounds applied in line with its axis for three (3) seconds. It shall then be subject to a voltage adjusted to a point just below flashover potential which shall be maintained continuously for ten (10) minutes. The insulation resistance shall then be measured. No insulator unit shall be accepted which shows appreciable mechanical distortion or injury, or which punctures during the over-voltage test, or which measures less than 5,000 megohms insulation resistance.

(*e*) *Field test.* Each insulator unit shall be tested for insulation resistance immediately preceding erection. No unit shall be accepted which has an insultation resistance less than 5,000 megohms.

Cradles.

11. No cradles or overhead bridges shall be used except where special permission is granted by the Commission.

Materials.

12. (*a*) *Conductors.* The conductors shall be of copper, aluminum, or other non-corrodible material except where the required mechanical strength can not be obtained with the above materials; if properly protected from corrosion, steel cables may be used.

(*b*) *Insulator supports, clamps, and miscellaneous attachments.* Insulator supports, clamps and miscellaneous attachments shall be of steel, wrought iron, malleable iron, or other approved metal or alloy, and shall be galvanized or otherwise protected from corrosion.

(*c*) *Guys.* Guys shall be galvanized or copper covered stranded steel cable, not less than $\frac{5}{16}$-inch diameter, or galvanized rolled rods of equivalent tensile strength.

(*d*) *Structural steel.* Structural steel shall be in accordance with the manufacturer's standard specifications.

The design and workmanship shall be strictly in accordance with first-class practice.

The form of the frame shall be such that the stresses may be computed with reasonable accuracy, or the strength shall be determined by actual test.

The sections used shall permit inspection, cleaning and painting, and shall be free from pockets in which water or dirt can collect.

The length of a main compression member shall not exceed 180 times its least radius of gyration. The length of a secondary compression member shall not exceed 220 times its least radius of gyration.

The minimum thickness of metal in galvanized structures shall be one-quarter inch ($\frac{1}{4}$") for main members and one-eighth inch ($\frac{1}{8}$") for secondary members. The minimum thickness of painted material shall be one-quarter inch ($\frac{1}{4}$").

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Records.

13. Drawings showing correctly towers, supports, clamps, miscellaneous attachments, etc., specifications covering concrete, steel, conductors, towers, insulators and protective coatings, sketches showing roadway, clearance, tower spacing and foreign lines, a complete statement of the actual unit factors of safety at each crossing, together with a record of the maximum and minimum temperatures, the maximum wind velocity and ice-covering used in calculating stresses shall be filed in duplicate with the Commission at least thirty (30) days before the line is placed in operation.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 19th day of June, 1916.

DECISION No. 3448.

IN THE MATTER OF THE APPLICATION OF NAPA CITY WATER COMPANY FOR PERMISSION TO ISSUE BONDS.

Application No. 2242.

Decided June 21, 1916.

Applicant was heretofore authorized to issue $2,500.00 face value of bonds for certain improvements. Owing to unforeseen developments the expense of such improvements will exceed the original estimates, and it is accordingly authorized to issue $1,000.00 face value additional bonds covering same.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Whereas Napa City Water Company was on the twenty-fourth day of May, 1916, by Decision No. 3373, granted authority to sell $2,500.00 face value of its 5 per cent treasury bonds at par and to apply the proceeds thereof as set forth in said order, which authorized among other matters the purchase and installation of a deep well turbine pump at a cost of $832.50; and

Whereas applicant now finds after having installed and later removed said pump, at a cost of $150.00, that owing to the presence of gases it is impracticable to use a turbine pump in said well and that in order to obtain the necessary water supply it will, in applicant's opinion, be necessary to bore and equip another well at its plant known as Pumping Station No. 2; and

Whereas Napa City Water Company has filed a supplemental application with this Commission requesting permission to issue at par two more of its treasury bonds of the face value of $500.00 each, and to apply the proceeds of said issue to the boring and equipment of said

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new well, together with $682.50 of the sum authorized in Decision No. 3373, to be applied upon the purchase and installation of a deep well turbine pump,

It is hereby ordered that Napa City Water Company be and the same is hereby authorized to issue at par, subject to the conditions set forth in Decision No. 3373, two of its 5 per cent treasury bonds of the face value of $500.00 each, in addition to the five bonds authorized to be issued under said decision.

It is hereby further ordered that applicant be authorized to apply the proceeds of said bonds and $682.50 of the proceeds of the bonds authorized to be issued under Decision No. 3373 substantially as follows:

Boring 12-inch well, 220 feet at $2.25 per foot	$495 00
220 feet of 11½-inch casing at $1.74 per foot	382 80
Compressor, including freight	800 00
400 feet 5-inch discharge pipe at 50 cents per foot	200 00
450 feet 1¼-inch air pipe at 21 cents per foot	94 50
Installation labor, freight, cartage, foundation for compressor and incidentals	143 80
Total estimated cost	$2,116 10
Credit by sale of small compressor and motor	482 80
Net estimated cost	$1,633 30
Reimbursement of treasury	49 20
Total	$1,682 50

It is hereby further ordered that all the provisions of this Commission's order in the above entitled matter, dated May 24, 1916 (Decision No. 3373), shall remain in full force and effect except as modified or amended by this order.

Dated at San Francisco, California, this 21st day of June, 1916.

Decision No. 3449.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR PERMISSION TO CONSTRUCT, MAINTAIN AND OPERATE AT GRADE, RAILROAD CROSSINGS IN THE CITY OF SAN JOSE AND THE COUNTY OF SANTA CLARA.

Application No. 1966.

Decided June 21, 1916.

Report of the Commission.

OPINION ON PETITION OF SAN JOSE CHAMBER OF COMMERCE FOR REHEARING.

On June 8, 1916, San Jose Chamber of Commerce filed a petition for rehearing in this proceeding. A number of the points therein pre-

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sented were ruled upon by this Commission in its opinion on the petition of the city of San Jose for a rehearing herein, which opinion was filed on June 14, 1916. The Railroad Commission has given careful consideration to all the points presented in the petition of the San Jose Chamber of Commerce and is of the opinion that no good reason is presented why a rehearing should be held.

ORDER ON PETITION FOR REHEARING.

San Jose Chamber of Commerce having heretofore filed a petition for rehearing in the above entitled proceeding, and no good reason appearing why such rehearing should be held,

It is hereby ordered that said petition be and the same is hereby denied.

Dated at San Francisco, California, this 21st day of June, 1916.

DECISION NO. 3450.

IN THE MATTER OF THE APPLICATION OF PACIFIC LIGHT AND POWER CORPORATION FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES GRANTED BY THE COUNTY OF KERN BY ORDINANCE NO. 117, ADOPTED MARCH 8, 1916.

Application No. 2225.

Decided June 21, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

The Railroad Commission hereby declares that on June 16, 1916, Pacific Light and Power Corporation filed herein a stipulation satisfactory to the Railroad Commission, authorized by the board of directors, agreeing that Pacific Light and Power Corporation, its successors and assigns, will never claim before the Railroad Commission, or any other public authority, any value for the franchise granted by Ordinance No. 117 of the Board of Supervisors of the county of Kern, in excess of the cost thereof, declared by Pacific Light and Power Corporation to be three hundred and seventeen dollars and fifteen cents ($317.15).

Dated at San Francisco, California, this 21st day of June, 1916.

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DECISION NO. 3451.

IN THE MATTER OF THE APPLICATION OF LATON AND WESTERN RAILROAD COMPANY AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY FOR APPROVAL OF A LEASE.

Application No. 2094.

Decided June 21, 1916.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

The Commission having on February 25, 1916, made an order approving a certain lease described in said order and under the terms of which the Atchison, Topeka and Santa Fe Railway company agrees that it will for a period of thirty days, beginning February 22, 1916, operate the line of railroad owned by Laton and Western Railroad Company under certain conditions specified in the agreement, and applicants having asked for the approval of the Commission to an extension of the term of said lease to and including Saturday, August 26, 1916, and it appearing to the Commission that such request is reasonable and should be granted,

It is hereby ordered that this Commission give its approval to an extension to and including Saturday, August 26, 1916, of the term of the lease of the line of Laton and Western Railroad Company by The Atchison, Topeka and Santa Fe Railway Company referred to above.

Dated at San Francisco, California, this 21st day of June, 1916.

DECISION NO. 3452.

IN THE MATTER OF THE APPLICATION OF NORTHERN CALIFORNIA POWER COMPANY, CONSOLIDATED, FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES UNDER A PROPOSED FRANCHISE FROM THE COUNTY OF YOLO.

Application No. 2320.

Decided June 22, 1916.

Order made preliminary to the issuance of a certificate of public convenience and necessity granting applicant permission to construct its transmission lines and distribute electrical energy in the county of Yolo, including the town of Dunnigan, not now served by the Pacific Gas and Electric Company.

REPORT OF THE COMMISSION.

This is an application of Northern California Power Company, Consolidated, a corporation, for an order of the Railroad Commission declaring that it will, upon application, issue a certificate, that the

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present and future public convenience and necessity require the exercise by said corporation of rights and privileges under a franchise for which it has applied to the county of Yolo.

A public hearing was held in San Francisco on June 15, 1916. From the evidence it appears that applicant is engaged in the business of generating, transmitting and distributing electric energy in the counties of Shasta, Tehama, Glenn, Butte, Colusa and Trinity, and of distributing water for domestic purposes in the municipalities of Redding and Willows, and of generating and distributing artificial gas in the municipalities of Redding, Red Bluff and Willows; that a number of the residents of the town of Dunnigan, Yolo County, and its vicinity, are desirous of obtaining electric energy from applicant, and that there is no electric service of any kind or character now being rendered in the town of Dunnigan or its vicinity. It further appears that certain residents of Dunnigan have, without avail, endeavored to induce the Pacific Gas and Electric Company to extend its service from Howells Point, and that thereupon they applied to applicant for such service through informal proceedings instituted before this Commission. According to the testimony offered by applicant, as well as that of several witnesses residing in or near Dunnigan, it further appears that there is an active demand for electric service in this district and that its introduction will materially benefit this community.

In Decision No. 123, *In the matter of the application of Oro Electric Corporation for a certificate of public convenience and necessity, etc.* (dated July 3, 1912, and reported in Vol. 1, Opinions and Orders of the Railroad Commission of California, p. 253), Commissioner Thelen stated:

> "As to Yolo County, applicant asks for this Commission's certificate for the entire county. The Pacific Gas and Electric Company is at present serving the city of Woodland and a limited territory to the south and east thereof, but the entire remaining portion of the county is without any electric service whatsoever. The testimony shows great possibility for power development in this county, with some considerable demand at present. Apart from the city of Woodland I recommend that the application be granted as prayed for."

It further appears that Oro Electric Company failed to exercise its rights or privileges under the certificate of public convenience and necessity granted by said decision, and that Pacific Gas and Electric Company has not, since that date, extended its service to any new territory in Yolo County. Applicant stated that it contemplates extending its service as rapidly as practicable throughout all that portion of Yolo County not at present served by the Pacific Gas and Electric Company.

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Since the filing of the above entitled application, Northern California Power Company, Consolidated, has applied to the county of Yolo for a franchise, and, according to testimony of Mr. F. B. Edson, one of the supervisors of said county, there is apparently little doubt but what the franchise will be granted. While ordinarily this Commission is averse to giving a certificate of public convenience and necessity to exercise rights and privileges under a proposed franchise which has not yet been secured, nevertheless, in view of all the circumstances in this case, including the fact that no objection or protest was made to this application, and that refusal to pass upon the matter at this time would subject both applicant and the inhabitants of Dunnigan to an unnecessary delay, we find that the application should be granted, subject to conditions set forth in the following order:

ORDER.

Northern California Power Company, Consolidated, having applied to this Commission for a declaration that it will, upon application, issue a certificate that the present and future public convenience and necessity require the exercise by said corporation of rights and privileges under a franchise which it contemplates securing from the county of Yolo, and a public hearing having been held, and the matter being now ready for decision, the Railroad Commission of California declares:

That present and future public convenience and necessity require the extension of the power line of Northern California Power Company, Consolidated, from College City to Dunnigan, Yolo County, and the furnishing by it of electric energy to all that portion of Yolo County not now served by Pacific Gas and Electric Company, and the exercise within such territory of the rights and privileges which may be granted under a franchise for which said corporation has applied to the county of Yolo;

Provided that upon the granting by the county of Yolo of the franchise for which application has been made, as set forth in the foregoing opinion, Northern California Power Company, Consolidated, shall file with this Commission a supplemental application, under the provisions of section 50 of the Public Utilities Act, for a certificate that public convenience and necessity require the exercise by said corporation of the rights and privileges under said franchise;

And provided further that Northern California Power Company, Consolidated, shall, before obtaining said certificate of public convenience and necessity, have first filed with this Commission a stipulation duly authorized by its board of directors, agreeing that Northern California Power Company, Consolidated, its successors and assigns, will never claim before the Railroad Commission of the state of California, or any other public authority, any value for the franchise granted

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by said county of Yolo in excess of the actual cost thereof, and shall have secured from this Commission a further supplemental order herein, declaring that such stipulation satisfactory to the Railroad Commission has been filed;

And provided further that unless the county of Yolo shall have granted to applicant on or before April 30, 1917, a franchise covering the territory included in the proposed franchise above referred to, for which applicant has applied to the board of supervisors of said county of Yolo, then this order shall become null and void.

Dated at San Francisco, California, this 22d day of June, 1916.

DECISION No. 3453.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY, OF FRANKLIN V. SPOONER, ROBERT R. PARDOW AND JOHN C. RUED, AND OF HENRY E. COOPER, A. M. HUNT, JAMES D. PHELAN, GEORGE WHITTELL, DAVID R. FORGAN, I. DEBRUYN, C. LEDYARD BLAIR, FREDERICK H. ECKER, STARR J. MURPHY, ROBERT W. MARTIN, WILLIAM SALOMON AND RICHARD B. YOUNG, AS THE REORGANIZATION COMMITTEE CONSTITUTED BY THE PLAN AND AGREEMENT OF REORGANIZATION OF WESTERN PACIFIC RAILWAY COMPANY, FOR AUTHORIZATION OF PROCEEDINGS PURSUANT TO SAID PLAN AND AGREEMENT OF REORGANIZATION.

Application No. 2351.

Decided June 22, 1916.

Applicants' plan of reorganization contemplates the following: The issuance of $47,500,000.00 par value of common stock, $27,500,000.00 par value of preferred stock, and $20,000,000.00 face value of bonds. Thirteen shares of common to be used to qualify directors, the balance, including all of the preferred, together with $2,000,000.00 cash derived from the sale of bonds, to be issued in exchange for the properties of the Western Pacific Railway Company.

The holding company, to be hereafter organized, receiving such stock, to issue $47,500,000.00 common and $27,500,000.00 preferred stock, to be distributed among the depositing bondholders as provided.

Bonds to bear interest at 5 per cent, to be sold at not less than 90; proceeds, together with $600,000.00 cash, to be turned over by the receivers to be used, (*a*) to pay distributive shares of nonassenting bondholders, underwriting commissions, court costs, and such incidental expenses, amounting in all to $2,000,000.00; (*b*) for betterments, to existing properties, $2,597,750.00; (*c*) for new equipment, $3,514,000.00; (*d*) new extensions, feeders, additional properties, etc., $10,506,250.00. Applicant also proposes to execute a trust deed to the First Federal Trust Company and Alvin W. Krech, as trustees, securing said bonds.

The proposed plan will eliminate $75,000,000.00 par value of capital stock, $50,000,000.00 first mortgage bonds, $25,000,000.00 second mortgage bonds, and other indebtedness amounting to approximately $25,000,000.00, substituting $75,000,000.00 par value of stock, bonds not included, as practically the entire proceeds will be expended for extensions and new property.

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The bond interest of the old road amounted to $4,451.00 per mile of line and is commented upon as an exceptionally high figure. Under the plan submitted the bonded indebtedness of the company will be less than $20,000.00 per mile.

Plan favorably commented upon and necessary consent to its consummation given, provided that when the final details are determined upon, application shall be made to the Commission for such supplemental orders as may be necessary in connection therewith.

John F. Bowie, for Petitioners.

Perry Evans, for Western Pacific Railway Company.

REPORT OF THE COMMISSION.

This is a petition for an order authorizing Western Pacific Railway Company to sell its entire property and authorizing The Western Pacific Railroad Company to purchase said property, to issue stock of the par value of $75,000,000.00 and bonds of the face value of $20,000,000.00, and to mortgage its property to secure an authorized issue of bonds of the face value of $50,000,000.00, all in accordance with a plan and agreement of reorganization of Western Pacific Railway Company.

A public hearing herein was held in San Francisco on June 19, 1916, at which time this application was submitted.

Western Pacific Railway Company was incorporated on March 3, 1903, under the laws of California, for the purpose of constructing a main line of railroad between San Francisco, California, and Salt Lake City, Utah, together with branch lines.

Construction commenced in 1905. The first through train over the line arrived in Oakland, California, on August 22, 1910, and operation commenced shortly thereafter. The railroad was transferred from the construction department to the operating department on July 1, 1911.

The main line runs from San Francisco by ferry and barge system to Oakland; thence southeasterly, easterly, northerly, and easterly through the cities or towns of Niles, Stockton, Sacramento, Marysville, Oroville, Keddie, Portola, Hawley and Doyle, to a point on the boundary line between the states of California and Nevada on the eastern boundary of Plumas County, California; thence in a general easterly direction across the state of Nevada to a point on the boundary line between the states of Nevada and Utah; and thence in a general easterly direction along the southerly edge of the Great Salt Lake to Salt Lake City, Utah. The length of the main line is 926.31 miles, of which distance 377.10 miles are located in California, 427.25 miles in Nevada and 121.96 miles in Utah. Western Pacific Railway Company owns one branch line, extending from Carbona, San Joaquin County, California, in a general southwesterly direction, a distance of 13.13 miles, to Tesla, Alameda County, California. The total length of all tracks, including main line mileage, second tracks and yard tracks and sidings is 1,112.47 miles.

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The maximum grade is 53 feet to the mile, being a 1 per cent grade. This grade is more favorable than that of any of the other transcontinental railroads reaching California. The maximum degree of curvature is 10 degrees, compensated at the rate of .035 feet per degree. The line as constructed across the Sierra Nevada Mountains is remarkably free from snow, so that maintenance charges due to snow are at a minimum. The construction standards were first class.

Mr. J. F. Evans, general auditor of Western Pacific Railway Company, testified that the cost of Western Pacific Railway Company's property in cash or the equivalent thereof, to April 30, 1916, was $81,869,254.60. Included in this amount are $3,296,975.00 discount on first mortgage bonds and $16,556,194.08 interest during construction. The sources from which these funds were derived are as follows:

Proceeds of sale of first mortgage bonds	$46,243,120 00
Proceeds of sale of second mortgage bonds	18,750,000 00
Proceeds of sale of capital stock	163,000 00
Interest on trust funds deposited during construction	1,870,146 00
Accrued interest on second mortgage bonds	52,905 00
Moneys borrowed	16,408,650 00
Income from operation pending construction used for construction	754,353 00
Total	$84,242,174 00

The difference between the total of $84,242,174.00 and the sum of $81,869,254.60, testified to by Mr. Evans, represents principally interest on first mortgage bonds accruing subsequent to the end of the construction period.

The net book cost of the property of Western Pacific Railway Company as of June 30, 1911, as appears on Schedule A of Railroad Commission's Exhibit No. 5 herein, was $154,198,412.71. The book cost as of April 30, 1916, as testified to by Mr. Evans, was $157,660,085.75. The book cost includes an item of $75,000,000.00 to balance the capital stock, amounting to $75,000,000.00. Almost all the common stock was issued as bonuses in connection with certain bond and other transactions. The only cash derived from the sale of common stock was the sum of $163,000.00.

No detailed estimates of reproduction cost new or of reproduction cost new less accrued depreciation were presented. Mr. T. J. Wyche, chief engineer of Western Pacific Railway Company, testified that he had been engaged for some time in the preparation of an estimate of the cost to reproduce the property of Western Pacific Railway Company and that, while this estimate has not been completed, he concludes that his final figure will be in excess of $75,000,000.00. Mr. Richard Sachse, the chief engineer of the Railroad Commission, testified that the engineering department has been working on the estimated cost to reproduce the property of Western Pacific Railway Company in

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California, and that on the basis of the information thus far secured, the cost to reproduce new that portion of the property which is located in the state of California would approximate $60,000,000.00, and for the entire property, between eighty and eighty-five millions dollars. He testified further that the cost to reproduce new less depreciation would be approximately $47,000,000.00 for the property in California and $72,250,000.00 for the entire property. The estimates, both of Mr. Wyche and of Mr. Sachse, were stated to be merely approximations.

Western Pacific Railway Company issued the entire amount of its authorized capital stock, being 750,000 shares of common capital stock, of the par value of $100.00 per share. The company also issued its entire authorized first mortgage bonds, consisting of bonds of the face value of $50,000,000.00, secured by mortgage or deed of trust to The Equitable Trust Company of New York, successor to Bowling Green Trust Company, and also its entire authorized issue of second mortgage bonds, consisting of bonds of the face value of $25,000,000.00, secured by mortgage or deed of trust dated October 9, 1908, to Central Trust Company of New York. Other liabilities of Western Pacific Railway Company will appear hereinafter in the general balance sheet as of April 30, 1916. It will suffice, for the present, to draw attention to the fact that the principal portion of these other liabilities consists of moneys owing to The Denver and Rio Grande Railroad Company, owner of approximately five-sixths of the capital stock of Western Pacific Railway Company, for moneys advanced. The moneys thus owing to The Denver and Rio Grande Railroad Company are in excess of $25,000,000.00.

Western Pacific Railway Company has operated under a number of serious handicaps, among which the following may be stated:

(1) Lack of branch lines and other feeders.
(2) Highly competitive conditions in territory served.
(3) Disadvantageous contractural relations with other carriers.
(4) Excessive interest requirements for mileage operated.
(5) Unusual obstacles and difficulties during the construction period, including the San Francisco earthquake and fire of 1906.
(6) Financial panic of 1907, during construction period.

The results of these handicaps are reflected in the profit and loss statements of Western Pacific Railway Company.

The following table shows comparative income and profit and loss statements of Western Pacific Railway Company for the fiscal years ending June 30, 1912, 1913, 1914, and 1915:

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TABLE No. I.

Comparative Income and Profit and Loss Statements—Western Pacific Railway Company—June 30, 1912, 1913, 1914 and 1915.

	Year ending June 30, 1912	Year ending June 30, 1913	Year ending June 30, 1914	Year ending June 30, 1915
Operating revenues	$5,258,532 43	$6,173,628 29	$6,099,573 37	$5,708,126 27
Operating expenses	4,229,864 55	4,478,835 06	4,995,891 64	4,419,936 53
Net operating revenues	$1,028,667 88	$1,694,793 23	$1,103,681 73	$1,288,189 74
Outside operations—revenues	$172,115 13	$168,967 07	$151,563 96	----------
Outside operations—expenses	208,276 66	180,602 35	178,716 22	----------
Net revenues from outside operations	**$36,161 53**	**$11,635 28**	**$27,152 26**	----------
Total net revenues	$992,506 35	$1,683,157 95	$1,076,529 47	$1,288,189 74
Taxes accrued	185,233 84	278,096 13	379,259 40	355,032 88
Operating income	$807,272 51	$1,405,061 82	$697,270 07	$933,156 86
Other income.				
Joint facility rent income	----------	$83 28	$124 92	$124 92
Miscellaneous rent income	$17,387 92	23,447 34	27,497 17	50,199 84
Income from unfunded securities and accounts	1,967 86	26,504 73	4,688 48	3,015 71
Miscellaneous income	----------	----------	15,000 00	783 28
Total other income	$19,355 78	$50,035 35	$47,310 57	$54,123 75
Gross corporate income	$826,628 29	$1,455,097 17	$744,580 64	$987,280 61
Deductions from gross income.				
Hire of equipment	$203,495 43	$302,281 67	$300,959 16	$252,795 05
Joint facility rent deductions	28,514 49	57,093 03	60,569 66	54,757 82
Miscellaneous rent deductions	29,202 48	47,778 60	49,657 94	50,192 60
Interest accrued on funded debt	3,748,245 97	3,752,281 25	3,752,774 98	3,113,435 53

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Other interest	98,801 70	681,804 33	819,788 44	4,643 39
Amortization of discount on funded debt	341 09		173,186 45	117,319 84
Miscellaneous deductions		2,312 50	8,251 84	5,708 98
Total deductions	$4,108,601 16	$4,843,551 38	$5,165,188 47	$3,598,853 21
Net corporate loss	$3,281,972 87	$3,388,454 21	$4,420,454 21	$2,613,424 51
Profit on road and equipment sold		21,917 62		
Delayed income credits		21,499 56	11,159 49	
Miscellaneous credits		11,483 95	1,277 55	5,884 37
Loss and retired road and equipment		13,158 51	7,385 78	
Delayed income debits		33,435 12	95,692 02	1,851 91
Miscellaneous debits		602 55		54,147 23
Deficit for year	3,281,972 87	3,380,749 26	4,511,248 59	2,661,687 37
Deficit at beginning of year		3,281,972 87	7,008,947 24	11,520,195 83
Deficit at end of year	3,281,972 87	6,662,722 13	11,520,195 83	14,181,883 20

NOTE.—By direction of I. C. C. entries were made charging profit and loss $172,848.04 and income $173,186.45, thus reducing amount of discount to be charged during life of securities after June 30, 1913, from $6,709,562.94 to $6,363,528.45; also a charge of $190.62 was made for interest on equipment. This accounts for the difference of deficit between 1913 and 1914.

Attention should be drawn to the deficits for each fiscal year and to the accumulated deficits at the end of the respective fiscal years, as follows:

	Year ending June 30, 1912	Year ending June 30, 1913	Year ending June 30, 1914	Year ending June 30, 1915
Deficit for year	$3,281,972 87	$3,380,749 26	$4,511,248 59	$2,661,687 37
Deficit at end of year	3,281,972 87	6,662,722 13	11,520,195 83	14,181,883 20

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The disadvantages under which Western Pacific Railway Company has been laboring are also reflected in the following table, showing comparative statistical figures of Western Pacific Railway Company with other typical railroad systems, as of June 30, 1914:

TABLE No. II.

	Western Pacific Railway Company	Southern Pacific Company	Atchison, Topeka and Santa Fe Railway Company	Illinois Central Railway
Mileage	943	[1]5,685	7,158	2,273
Cost of construction	$156,318,136 00	[1]$614,764,256 00	$639,802,459 00	$136,579,423 00
Cost per mile of line	$165,767 00	[1]$108,138 00	$89,383 00	$60,087 00
Passengers carried	236,162	36,645,269	11,882,779	27,522,774
Passengers carried one mile	62,075,775	1,348,286,556	1,146,808,853	718,962,391
Passenger revenue	$1,253,731 00	$30,018,598 00	$24,633,111 00	$13,715,979 00
Average amount received from each passenger	$5 30	$0 81917	$2 07	$0 49835
Average receipts per passenger per mile	$0 0202	$0 02226	$0 0214	$0 01908
Passenger service train revenue per train mile	$1 04	$1 57	$1 47	$1 26260
Freight tonnage	1,199,940	20,338,210	21,540,082	32,342,709
Freight tonnage carried one mile	595,826,774	4,730,340,390	5,893,379,432	7,789,173,596
Average distance haul of one ton—miles	496.55	232.58	273.60	240.83
Freight revenue	$4,675,940 00	$55,182,071 00	$61,089,210 00	$13,871,272 00
Average amount received for each ton of freight	$3 90	$2 71	$2 84	$1 35645
Freight revenue per mile of road	[2]$4,977 00	[2]$8,448 00	[2]$7,320 00	$9,200 00
Freight revenue per train mile	$3 20	$4 97	$3 70	$2 34824
Total operating revenues	$6,099,573 00	$92,038,088 00	$93,540,268 00	$65,873,700 00
Operating revenues per mile of road	[2]$6,493 00	[2]$14,045 00	[2]$11,208 00	$13,814 00
Operating revenues per train mile	$2 19	$2 83	$2 67	$2 06691
Operating expenses	$4,995,891 00	$64,991,140 00	$60,172,701 00	$50,775,327 00
Operating expenses per mile of road	[2]$5,318 00	[2]$8,395 00	[2]$7,210 00	$10,648 00
Operating expenses per train mile	$1 80	$1 69	$1 72	$1 59317
Ratio of operating expenses to operating revenues	81.91%	59.75%	64.33%	77.08%
Net revenue	$1,103.682 00	$37,046,948 00	$33,367,567 00	$15,098,373 00

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Net revenue per mile of road	$1,174 00	[2]$5,651 00	[2]$3,998 00	$3,166 00
Freight train mileage	1,406,248	10,044,661	14,165,594	18,395,176
Passenger train mileage	1,318,489	20,968,580	18,511,697	13,180,317
Total revenue train mileage	2,778,843	31,983,426	35,055,309	31,870,640
Interest charges	$3,752,775 00	$6,310,240 00	$12,624,769 00	$7,817,785 00
Interest charges per mile of road	$4,451 00	[1]$1,110 00	$1,763 00	$3,439 00
Profit and loss for year after deducting all charges	**$4,511,248 00**	$29,919,271 00	None	$2,057,112 00

[1]Subsidiary lines included.
[2]Figured on average mileage operated.

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TABLE No. II—CONTINUED.

	Louisville and Nashville Railroad	Boston and Maine Railroad	Missouri Pacific Railway	Denver and Rio Grande Railway
Mileage	4,080	725	3,777	2,524
Cost of construction	$241,818,228 00	$90,653,840 00	$155,013,953 00	$174,316,510 00
Cost per mile of line	$59,269 00	$125,039 00	$41,041 00	$69,064 00
Passengers carried	13,360,348	47,032,535	6,231,778	1,820,715
Passengers carried one mile	577,420,770	896,081,331	259,469,924	248,876,693
Passenger revenue	$13,082,509 00	$15,851,615 00	$4,848,431 00	$5,077,408 00
Average amount received from each passenger	$0 7920	$0 33704	$0 77801	$2 78869
Average receipts per passenger per mile	$0 02266	$0 01769	$0 01869	$0 02040
Passenger service train revenue per train mile	$1 40393	$1 54584	$0 95451	$1 52852
Freight tonnage	32,215,106	24,752,884	12,182,074	11,230,397
Freight tonnage carried one mile	5,511,812,374	2,635,138,719	2,388,847,411	1,420,196,751
Average distance haul of one ton—miles	171.09	106.46	196.10	126.46
Freight revenue	$42,868,078 00	$27,866,098 00	$19,490,425 00	$17,058,080 00
Average amount received for each ton of freight	$1 33068	$1 12577	$1 59993	$1 51892
Freight revenue per mile of road	$8,683 00	$12,376 00	$4,973 00	$6,603 00
Freight revenue per train mile	$2 30663	$3 32480	$2 68708	$4 05308
Total operating revenues	$59,682,778 00	$47,413,906 00	$26,662,040 00	$23,167,051 00
Operating revenues per mile of road	$12,089 00	$21,057 00	$6,792 00	$8,968 00
Operating revenues per train mile	$2 04110	$2 36523	$1 96678	$3 10167
Operating expenses	$44,782,708 00	$38,296,679 00	$21,776,082 00	$16,018,196 00
Operating expenses per mile of road	$9,071 00	$17,008 00	$5,556 00	$6,201 00
Operating expenses per train mile	$1 53152	$1 91042	$1 60877	$2 14456
Ratio of operating expenses to operating revenues	75.03%	80.77%	81.80%	69.14%
Net revenue	$14,900,070 00	$9,117,227 00	$4,845,958 00	$7,148,855 00
Net revenue per mile of road	$3,018 00	$4,049 00	$1,236 00	$2,767 00
Freight train mileage	17,996,595	8,142,071	6,899,299	3,674,315
Passenger train mileage	10,647,166	11,568,580	6,268,660	3,259,122
Total revenue train mileage	29,240,524	20,046,231	13,535,846	7,469,227
Interest charges	$7,137,539 00	$3,572,778 00	$7,762,342 00	$5,626,035 00
Interest charges per mile of road	$1,749 00	$4,929 00	$2,055 00	$2,229 00
Profit and loss for year after deducting all charges	**$741,147 00**	**$2,780,904 00**	**$3,017,743 00**	$640,836 00

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The cost of construction of Western Pacific Railway shown in the foregoing table is the book cost and includes the item of $75,000,000.00 for common stock hereinbefore referred to. The most significant item in the foregoing table is possibly the bond interest per mile of railroad, this interest being $4,451.00 for Western Pacific Railway as contrasted with $1,110.00 for the Southern Pacific Company, $1,763.00 for Atchison, Topeka and Santa Fe Railway Company, $2,055.00 for Missouri Pacific Railway and $4,929.00 for the Boston and Maine Railroad, which is conceded to be one of the highest capitalized railroads in the United States.

The following table shows in summary form the revenues and expenses of Western Pacific Railway Company for the fiscal year ending June 30, 1915, and also for the ten months ending April 30, 1916:

TABLE No. III.

Revenues and Expenses—Western Pacific Railway Company—Fiscal Year ending June 30, 1915, and Ten Months ending April 30, 1916.

Item	Year ended June 30, 1915	Ten months ended April 30, 1916
Railway operating revenues	$5,708,126 27	$6,173,326 39
Railway operating expenses	4,419,936 53	3,968,079 17
Net revenue	$1,288,189 74	$2,205,247 22
Railway tax accruals	$355,032 88	$285,792 74
Uncollectible railway revenues	1,851 91	
Railway operating income	$931,304 95	$1,919,454 48
Nonoperating income:		
Rent—equipment, etc.	$50,324 76	$74,452 92
Income from unfunded securities	3,015 71	20,263 81
Miscellaneous income	783 28	827 10
Total nonoperating income	$54,123 75	$95,543 83
Gross income	$985,428 70	$2,014,998 31
Deductions:		
Interest on funded debt	$3,113,435 53	
Other interest	4,643 39	
Rent—equipment, etc.	357,745 47	$368,293 81
Amortization of discount on funded debt	117,319 84	
Miscellaneous	5,708 98	1,410 06
Total deductions	$3,598,853 21	$369,703 87
Loss for year	$2,613,424 51	
Surplus for 10 months—no deductions for interest		$1,645,294 44

The foregoing table shows a surplus for the ten months ending April 30, 1916, with no deductions for interest, amounting to $1,645,294.44, as contrasted with a loss of $2,613,424.51 after deductions for

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interest, for the fiscal year ending June 30, 1915. Mr. C. M. Levey, vice president and general manager of Western Pacific Railway Company prior to the receivership hereinafter referred to, and now president of The Western Pacific Railroad Company, testified that the earnings for the ten months ending April 30, 1916, must be deemed abnormal, for the reason that they include approximately $560,000.00 abnormal passenger earnings from the Panama-Pacific International Exposition and $850,000.00 abnormal freight earnings due to the closing of the Panama Canal and high water freight rates due to the shortage of vessels resulting from the European conflict. Mr. Levey testified that, in his judgment, this railroad system may reasonably be expected to earn during the next few years, an annual sum of $1,000,000.00 in excess of operating expenses and taxes. As bearing upon the net income available for the payment of interest and possible dividends on stock which may reasonably be anticipated, and hence also on the market value of the property on the basis of such net income, Mr. Richard Sachse, this Commission's chief engineer, testified that, in his judgment, the expenditures for maintenance and for betterments during the next few years will be considerably in excess of the expenditures heretofore annually incurred for these items. He referred to expenditures which will be necessary on the property now owned for grading, replacement of ballasting, replaeement and reconstruction of bridges, retimbering or concreting of tunnels, replacement of relay or second-hand 75-pound rail with new rail, completion of fencing, development of additional water supply and wharf facilities, elevation of portions of the line of railway, construction of automatic block signals and additional terminal development. Mr. Sachse made an approximate estimate of $8,075,000.00 to be expended for these various items during the next few years, which estimate appears in Railroad Commission's Exhibit No. 1.

On June 23, 1905, Western Pacific Railway Company entered into an agreement with The Denver and Rio Grande Railroad Company, The Rio Grande Western Railway Company, and Bowling Green Trust Company, in which agreement the Denver and Rio Grande Railroad Company and The Rio Grande Western Railway Company agreed, in effect, to meet all obligations for interest and sinking funds in connection with the first mortgage bonds of Western Pacific Railway Company, in so far as the latter company might be unable to meet these obligations. The agreement covered a number of other matters, including traffic arrangements. For awhile, The Denver and Rio Grande Railroad Company and The Rio Grande Western Railway Company met their obligations under this agreement. However, when the interest on the first mortgage bonds of Western Pacific Railway

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Company, payable on March 1, 1915, became due, The Denver and Rio Grande Railroad Company, a corporation of Colorado and Utah, the successor of The Denver and Rio Grande Railroad Company and The Rio Grande Western Railway Company, parties to the agreement of June 23, 1905, failed to provide the funds necessary to meet said interest requirements. On March 1, 1915, Western Pacific Railway Company defaulted in the payment of interest then due on its first mortgage bonds. Similar default was made on September 1, 1915, and March 1, 1916. On March 2, 1915, The Equitable Trust Company of New York, substitute trustee under the first mortgage or deed of trust of Western Pacific Railway Company, filed a bill to foreclose said mortgage, in the United States District Court for the Northern District of California. The Equitable Trust Company of New York thereafter filed its ancillary bill for such foreclosure in the United States District Court for the District of Utah. Warren Olney, Jr., and Frank G. Drum were appointed receivers of the property and have been in possession thereof and have operated the same from March 5, 1915, to date. On May 27, 1916, a decree of foreclosure and sale was entered in the proceeding pending in the Northern District of California, in which decree it was provided that the property should be sold by a special master for a minimum sum of $18,000,000.00, which sale is to be held on June 28, 1916. Said decree has been entered of record in the District Court of the United States of Nevada and a decree of similar substance has been entered in the ancillary cause pending in the District Court of the United States for the District of Utah.

Mr. Perry Evans, appearing on behalf of Western Pacific Railway Company, requested at the public hearing herein that the Railroad Commission make its order authorizing Western Pacific Railway Company to sell its property to the purchaser whose bid may hereafter be accepted in said foreclosure proceedings.

The following table shows the general balance sheet of Warren Olney, Jr., and Frank G. Drum, as receivers of the property of Western Pacific Railway Company as of April 30, 1916, including as of April 30, 1916, the accounts originating prior to the receivership:

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TABLE No. IV.

General Balance Sheet, Warren Olney, Jr., and Frank G. Drum, receivers of the property of Western Pacific Railway Company, April 30, 1916.

	Assets		
	Receivers' account	Prior account	Total receivers' account and prior account
Investments.			
Investment in road and equipment	$220,930 39	$156,485,324 21	$156,706,254 60
Investment in affiliated companies.			
Capital stock, Salt Lake City Union Depot and Railroad Company		99,900 00	99,900 00
Capital stock, Standard Realty and Development Company		175,439 78	175,439 78
Notes receivable (Standard Realty and Development Company)		203,873 07	203,873 07
Other investments.			
U. S. Government, land scrip (Valentine)		1,400 00	1,400 00
Total investments	$220,930 39	$156,965,937 06	$157,186,867 45
Current Assets.			
Cash.			
Chas. Elsey, treasurer for receivers	$1,294,246 37		$1,294,246 37
E. C. Bates, cashier "petty cash"	2,000 00		2,000 00
Remittances in transit	64,869 31		64,869 31
Time deposits.			
Bank of California, National Association	100,000 00		100,000 00
Mercantile National Bank of San Francisco	50,000 00		50,000 00
Stockton Savings and Loan Society	25,000 00		25,000 00
Rideout Smith National Bank, Oroville	10,000 00		10,000 00
Winnemucca State Bank and Trust Company	10,000 00		10,000 00
First National Bank of Winnemucca	10,000 00		10,000 00
Central National Bank, Oakland	20,000 00		20,000 00
Decker, Jewett & Company, Bank of Marysville	10,000 00		10,000 00
California National Bank of Sacramento	25,000 00		25,000 00
Henderson National Bank, Elko	10,000 00		10,000 00
Capital National Bank of Sacramento	25,000 00		25,000 00
Walker Bros Bankers, Salt Lake City	50,000 00		50,000 00
Utah State National Bank	50,000 00		50,000 00

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Special deposits.			
Chas. Elsey, treasurer for receivers, special account with Bank of California			
The Equitable Trust Company of New York—agent		$3,060 00	3,060 00
Traffic and car-service balances receivable	371,807 18	31,951 09	407,758 27
Net balance due from agents and conductors.			
Agents and conductors	213,192 15		213,192 15
Dining car conductors and hotel managers	228 35		228 35
Sacramento bonded warehouse	2,331 38		2,331 38
Miscellaneous accounts receivable.			
United States Government	43,729 01	6 40	43,735 41
Foreign roads, freight claim settlements	17,031 39	7,510 97	24,542 36
Individuals and companies	44,198 48	114,155 67	158,354 15
Freight charges collected through treasurer	17,353 78	5,565 42	22,919 20
American Express Company	3,254 88		3,254 88
Materials and supplies.			
General store	273,492 88		273,492 88
Roadway, bridge, building and transportation material—Western division	93,112 85		93,112 85
Roadway, bridge, building and transportation material—Eastern division	26,549 67		26,549 67
Shop material	1,920 38		1,920 38
Fuel stock	18,580 51		18,580 51
Engineering department material	1,613 40		1,613 40
Engineering property stored	5,817 50		5,817 50
Stationary stock	5,479 55		5,479 55
Ticket stock	7,044 33		7,044 33
War revenue tax stamps	59 04		59 04
Postage stamp stock	90 58		90 58
Dining car and hotel department	7,938 29		7,938 29
Other current assets.			
C. O. D. advances (baggage)	4 90		4 90
Prepaid order advances	303 11		303 11
Advance charges unreported	95,491 92	11 92	95,503 84
Traffic reports not received from foreign roads	183,645 91	80 94	183,726 85
Total current assets	$3,190,387 10	$162,342 41	$3,352,729 51

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TABLE No. IV—CONTINUED.

General Balance Sheet, Warren Olney, Jr., and Frank G. Drum, receivers of the property of Western Pacific Railway Company, April 30, 1916.

		Assets		
		Receivers' account	Prior account	Total receivers' account and prior account
Deferred Assets.				
Working fund advances.				
Individuals and companies		$370 00		$370 00
Customs attorney		3,540 70		3,540 70
Other deferred assets.				
The Equitable Trust Company first mortgage trust funds			$56,731 61	$56,731 61
Due on contracts for sale of property—Portola			2,389 50	2,389 50
J. Dalzell Brown, executive trustee	$248,579 11			
Receiver, California Safe Deposit and Trust Company	3,000 00			
	$251,579 11			
Less amount collected, from National Surety Company on bond of J. Dalzell Brown, executive trustee ($50,000.00); dividends from receiver California Safe Deposit and Trust Company ($42,210.53); and collections through suits from stockholders, California Safe Deposit and Trust Company ($44,436.80)	136,647 33			
			114,931 78	114,931 78
Total deferred assets		$3,910 70	$174,052 89	$177,963 59
Unadjusted Debits.				
Rents and insurance premiums paid in advance.				
Lease of Oakland waterfront lands		$583 35		$583 35
Rental seawall lot number 7, San Francisco		2,302 08		2,302 08
Seawall lot number 7, San Francisco, improvements			$13,769 98	13,769 98
Rental seawall lot number 22, San Francisco		4,291 62		4,291 62
Seawall lot number 22, San Francisco, improvements		6,605 88	12,434 76	19,040 64
Lease of pier number 34, San Francisco			116,482 35	116,482 35
Union Belt Line Railway lease			15,990 97	15,990 97
Insurance premiums paid in advance		4,310 35	24 28	4,334 63
Fidelity premiums paid in advance		1,419 16		1,419 16

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Discount on funded debt.			
Discount on first mortgage 5 per cent 30-year gold bonds	----------	383,604 36	383,604 36
Discount on second mortgage 5 per cent sinking fund gold bonds	----------	5,689,417 80	5,689,417 80
Other unadjusted debits.			
Freight claim department—unadjusted claims	14,827 40	8,362 11	23,189 51
Foreign roads arbitrary absorbed	969 70	----------	969 70
Flanigan gravel pit	570 00	----------	570 00
Renewal fund—dining cars—crockery and glassware	128 76	----------	128 76
Total unadjusted debits	$36,008 30	$6,240,086 61	$6,276,094 91
Grand totals	$3,451,236 49	$163,542,418 97	$166,993,655 46

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TABLE No. IV—CONTINUED.

General Balance Sheet, Warren Olney, Jr., and Frank G. Drum, receivers of the property of Western Pacific Railway Company, April 30, 1916.

	Liabilities		
	Receivers' account	Prior account	Total receivers' account and prior account
Stock.			
Capital stock—common stock		$75,000,000 00	$75,000,000 00
Total stock		$75,000,000 00	$75,000,000 00
Long Term Debt.			
Funded debt unmatured.			
First mortgage 5 per cent 30-year gold bonds		$50,000,000 00	$50,000,000 00
Second mortgage 5 per cent sinking fund gold bonds		25,000,000 00	25,000,000 00
Nonnegotiable debt to affiliated companies.			
Notes payable (The D. and R. G. R. R. Co.)		17,923,369 56	17,923,369 56
The D. and R. G. R. R. Co.—interest accrued on second mortgage bonds, December 31, 1914		3,750,000 00	3,750,000 00
Deficiency fund (Utah Fuel Company)		1,413,125 00	1,413,125 00
The D. and R. G. R. R. Co.—expense securing funds for Western Pacific Ry. Co.		100,000 00	100,000 00
The D. and R. G. R. R. Co.—interest on adjustment mortgage funds prior to withdrawals		59,621 03	59,621 03
The D. and R. G. R. R. Co.—interest as of February 28, 1915, on following notes:			
On note for $11,752,915.45		1,664,996 32	1,664,996 32
On adjustment mortgage notes		343,853 01	343,853 01
On miscellaneous notes		203,647 09	203,647 09
Total long term debt		$100,458,612 01	$100,458,612 01
Current Liabilities.			
Traffic and car-service balances payable	$219,265 12	$608,186 07	$827,451 19
Audited accounts and wages payable.			
Audited vouchers	228,576 71	574,491 55	803,068 26
Pay checks	212,461 55	1,427 37	213,888 92
Discharge checks	7,445 60	624 02	8,069 62

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Unclaimed wages	872 60	3,083 18	3,955 78
Vouchers and unclaimed wages—checks in payment of which were issued by treasurer on California Safe Deposit and Trust Company, but were dishonored and paid by reason of suspension of payment by bank		74 55	74 55
Checks drawn on Bank of California, not honored account receivership		3,389 83	3,389 83
Miscellaneous accounts payable.			
Claim agents drafts	59 50		59 50
Ticket redemption drafts	430 86	23 11	453 97
Freight claim agents drafts	110 05		110 05
Agents freight claim drafts	838 70	35 29	873 99
Agents drafts on treasurer	- 62,813 77	76	62,814 53
Transcontinental scrip bureau	4,058 61		4,058 61
Prepaid bond charge	132,472 10	23,864 80	156,336 90
Individuals and companies	1,171 02		1,171 02
Interest matured unpaid.			
Coupon No. 3, first mortgage 5 per cent 30-year gold bonds		25 00	25 00
Coupon No. 4, first mortgage 5 per cent 30-year gold bonds		25 00	25 00
Coupon No. 5, first mortgage 5 per cent 30-year gold bonds		25 00	25 00
Coupon No. 6, first mortgage 5 per cent 30-year gold bonds		25 00	25 00
Coupon No. 7, first mortgage 5 per cent 30-year gold bonds		150 00	150 00
Coupon No. 8, first mortgage 5 per cent 30-year gold bonds		25 00	25 00
Coupon No. 9, first mortgage 5 per cent 30-year gold bonds		50 00	50 00
Coupon No. 10, first mortgage 5 per cent 30-year gold bonds		75 00	75 00
Coupon No. 11, first mortgage 5 per cent 30-year gold bonds		25 00	25 00
Coupon No. 12, first mortgage 5 per cent 30-year gold bonds		25 00	25 00
Coupon No. 13, first mortgage 5 per cent 30-year gold bonds		25 00	25 00
Coupon No. 14, first mortgage 5 per cent 30-year gold bonds		175 00	175 00
Coupon No. 15, first mortgage 5 per cent 30-year gold bonds		27 50	27 50
Coupon No. 16, first mortgage 5 per cent 30-year gold bonds		127 50	127 50
Coupon No. 17, first mortgage 5 per cent 30-year gold bonds		130 00	130 00
Coupon No. 18, first mortgage 5 per cent 30-year gold bonds		635 00	635 00
Coupon No. 19, first mortgage 5 per cent 30-year gold bonds		1,490 00	1,490 00
Coupon No. 20, first mortgage 5 per cent 30-year gold bonds		1,250,000 00	1,250,000 00
Unmatured interest accrued.			
Accrued interest, second mortgage 5 per cent sinking fund gold bonds, February 28, 1915		208,333 33	208,333 33
Unmatured rents accrued.			
Sinking fund for redemption of bonds of Salt Lake City Union Depot and Railroad Company, April 30, 1916	5,000 00		5,000 00

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TABLE No. IV—CONTINUED.

General Balance Sheet, Warren Olney, Jr., and Frank G. Drum, receivers of the property of Western Pacific Railway Company, April 30, 1916.

	Liabilities		
	Receivers' account	Prior account	Total receivers' account and prior account
Other current liabilities.			
Foreign roads prepaid orders	382 17		382 17
Prepaid charges unreported	68,255 58	5 58	68,261 16
Passenger refunds	108 55		108 55
Total current liabilities	$944,322 49	$2,676,599 44	$3,620,921 93
Deferred Liabilities.			
Liabilities for provident funds.			
Hospital fund	$8,394 06	$15,484 13	$7,090 07
Other deferred liabilities.			
Collector Internal Revenue—income tax on bond interest	8 11	38 27	46 38
Collector Internal Revenue—income tax on rents	330 83	47 50	378 33
Collector Internal Revenue—income tax on salaries	238 65		238 65
Total deferred liabilities	$7,816 47	$15,569 90	$7,753 43
Unadjusted Credits.			
Tax liability	$36,629 82		$36,629 82
Accrued depreciation equipment	76,609 41	$217,239 55	293,848 96
Other unadjusted credits:			
Revenue received but not yet earned (round-trip tickets)	25,565 94		25,565 94
Freight overcharges	2,063 35	489 17	2,552 52
Passenger overcharges	39 47		39 47
Contract for sale of property		3,150 00	3,150 00
Advertising scrip account	5,825 47	9,378 78	15,204 25
Transcontinental scrip account	7,130 33	660 95	6,469 38
Individuals and companies (advance payments received)	877 83	617 35	1,495 18
Claim collections	2,384 29	549 39	2,933 68

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J. H. Simmons—customs duties	2 50		2 50
Insurance recovered	42 25	8,412 99	8,455 24
Depreciation on leased equipment (The D. and R. G. R. R. Co.)	17,849 66	29,880 17	47,729 83
Receipts from sale of unclaimed and refused freight	700 17	475 49	1,175 66
Unredeemed coupons (dining-cars and hotels)	629 50	18 15	647 65
Uncollected freight charges (Hammon Construction Company)	437 40		437 40
Total unadjusted credits	$176,787 39	$269,550 09	$446,337 48
Corporate Surplus.			
Additions to property through income and surplus	$2,714 01		$2,714 01
Profit and loss—balance (per detail on pages Nos. 4 and 5)	1,994,565 13	$14,537,248 53	12,542,683 40
Total corporate surplus	$1,997,279 14	$14,537,248 53	$12,539,969 39
Net assets of Western Pacific Railway Company collected and/or appropriated by the receivers, between March 5, 1915, and April 30, 1916, per detail on pages Nos. 6, 7, 8 and 9	340,663 94	340,663 94	
Grand totals	$3,451,236 49	$163,542,418 97	$166,993,655 46

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The current assets in the hands of the receivers on April 30, 1916, as shown by Table No. IV, were $2,162,933.95. On the day of the hearing herein the current assets, as testified to by Mr. Evans, were $1,855,101.32, consisting of $395,000.00 in special deposits and $1,460,-101.32 in banks.

The following table shows the remaining undischarged obligations and liabilities of Warren Olney, Jr., and Frank G. Drum, as receivers of the property of Western Pacific Railway Company, in so far as they may be ascertained by said receivers, as of June 30, 1916:

TABLE No. V.

Obligations and Liabilities of Warren Olney, Jr., and Frank G. Drum, as receivers of the property of Western Pacific Railway Company, June 30, 1916.

Audited vouchers	$175,848 88
Pay checks	241,375 34
Discharge checks	7,280 21
Unclaimed wages	749 85
Foreign roads—freight traffic balances	179,602 55
Foreign roads—freight claims	1,414 87
Foreign roads—passenger traffic balances	21,753 37
Foreign roads—prepaid ticket orders	848 66
Foreign roads—car-service balances	58,449 01
Prepaid beyond charges	70,904 69
Prepaid freight charges unreported	56,424 62
Freight overcharges	1,899 34
Agents drafts on treasurer	40,067 68
Freight claim agents drafts	2,117 46
Agents freight claim drafts	191 83
Transcontinental scrip	7,401 53
Advertising scrip	5,475 47
Transcontinental scrip bureau	6,061 03
Ticket redemption drafts	496 22
Passenger overcharges	29 81
Passenger refunds	108 55
C. O. D. advances (baggage)	----------
Individuals and companies	1,419 37
Collector Internal Revenue—income tax bond	1 75
Collector Internal Revenue—income tax rents	110 75
Collector Internal Revenue—income tax salaries	49 98
Claim agents drafts	59 50
Unredeemed meal coupons (dining car and hotels)	629 50
Tax liability	90,623 34
Unmatured rents accrued, Salt Lake Union Depot	6,166 66
Accrued interest on bonds, Salt Lake Union Depot	3,082 18
Estimated contingent liabilities.	
Freight claims unvouchered	61,060 11
Federal income tax, year 1915	14,080 35
Personal injury—live stock and damage to property claims	52,000 00
	$1,107,784 46

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Car equipment liabilities.	
Cash	$372,170 00
Notes	600,000 00
Total	$2,079,954 46
Expenditures authorized by orders of court on which work has been commenced, $319,000.00, of which amount there is unexpended and not included in the audited vouchers	225,000 00
Grand total	$2,304,954 46

On May 1, 1915, on which day Western Pacific Railway Company first defaulted in the payment of interest on its first mortgage bonds, an agreement was entered into between a reorganization committee of twelve members and such of the holders of the first mortgage bonds of Western Pacific Railway Company as might thereafter become parties thereto. Under this agreement, a plan and agreement for reorganization were prepared by the reorganization committee on December 15, 1915. Without referring to all the details of said plan, the plan, in effect, provides as follows: that a new corporation, referred to as the "operating company," is to be incorporated for the purpose of acquiring title to and operating the property of Western Pacific Railway Company; that a new corporation, referred to as the "holding company," is to be incorporated, which corporation is to own the entire stock of the "operating company," except directors' shares, the interest in any deficiency judgment against Western Pacific Railway Company apportionable to bonds deposited under the plan and the claims against The Denver and Rio Grande Railroad Company arising under the contract of June 23, 1905, or under any guarantees endorsed upon the first mortgage bonds of Western Pacific Railway Company; that the property of Western Pacific Railway Company is to be acquired by the new "operating company" substantially in exchange for the issue of common capital stock of the operating company amounting to $47,500,000.00, and preferred stock in the sum of $27,500,000.00, less the qualifying shares of directors, together with an expenditure of cash to be derived from the sale of first mortgage bonds of the operating company in an amount not in excess of the sum of $2,000,000.00, for the purpose of paying the distributive shares of nonassenting bondholders and paying expenses in connection with the reorganization; that the operating company is to authorize an issue of first mortgage bonds of the face value of $50,000,000.00, of which bonds $20,000,000.00 are to be sold immediately at not less than 90 per cent of their face value plus accrued interest; that the proceeds from the sale of said bonds, together with the sum of $600,000.00 which it is assumed will be remaining in the hands of the receivers, are to be used substantially to the extent of $2,000,000.00 for the distributive shares of nonassenting bondholders and for the payment of expenses of reorganization, $2,579,750.00 for

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betterments of the existing property, $3,514,000.00 for the acquisition of new passenger and freight equipment for the operating company, and $10,506,250.00 for the purchase or construction of extensions and feeders and other purposes hereinafter referred to, including a possible protection of the claims against The Denver and Rio Grande Railroad Company; that holders of the bonds of Western Pacific Railway Company may purchase at 90 per cent of face value, plus accrued interest, bonds of the operating company equal in principal amount to 40 per cent of the principal amount of their deposited bonds, in which event they will receive, in addition to such new bonds, preferred stock of the holding company to an amount in par value equivalent to 55 per cent of the principal amount of the deposited bonds and common stock of the holding company to an amount in par value equal to 95 per cent of the principal amount of the deposited bonds; that if a depositor of bonds of Western Pacific Railway Company does not desire to purchase new bonds, he will be entitled to receive, in exchange for his deposited bonds, preferred stock of the holding company in an amount equal in par value to 50 per cent of the principal amount of his deposited bonds and common stock of the holding company equal in amount, par value, to 75 per cent of the principal amount of the deposited bonds; that the cash payable by subscribers to the new bonds shall be paid in installments upon call of the reorganization committee or of the board of directors of the operating company; that depositors who may elect to purchase new bonds and to pay for the same in full when the first installment of the purchase price is due, may borrow money from the underwriting syndicate or lenders to be provided by said syndicate, in an amount not to exceed 90 per cent of the purchase price of the new bonds; that such of the new bonds as may not be purchased by the depositors are to be taken by an underwriting syndicate at 90 and accrued interest, which syndicate has agreed to take all of said bonds of the face value of $20,000,000.00 not subscribed for by the depositors, and is to receive for each $900.00 of cash paid for such bonds $1,000.00 principal amount of new bonds, and $125.00, par value, of preferred stock and $500.00, par value, of common stock of the holding company; that the underwriting syndicate, if the plan shall be declared operative, is to be paid a cash commission of $400,000.00 and that The Equitable Trust Company of New York, Blair & Co., William Salomon & Co., and E. H. Rollins & Sons, who have undertaken to form the syndicate, are to be paid an additional sum in cash of $100,000.00; that the claims of depositing bondholders against The Denver and Rio Grande Railroad Company arising either out of said agreement of June 23, 1905, or guarantees by The Denver and Rio Grande Railroad Company on the individual first mortgage bonds of Western Pacific Railway Company, shall be assigned to the holding company, and that such proceeds

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as the holding company may derive from such claims shall be disposed of as provided in the plan; that no provision is to be made for the allotment of any property or of any of the securities or moneys provided by the plan to holders of second mortgage bonds, to unsecured creditors or to stockholders of Western Pacific Railway Company; and that the reorganization committee shall have power to declare the plan operative.

The holders of approximately $47,481,100.00 of the first mortgage bonds of Western Pacific Railway Company out of the total issue of $50,000,000.00 have deposited their bonds under said plan and agreement and the plan has been declared operative. Of the remaining bonds not deposited, some 40 per cent are held in Germany and other portions of Europe, from which they can not at the present time be safely transmitted. Approximately $7,500,000.00 of the proposed $20,000,000.00 issue of bonds of the operating company have been subscribed for by holders of the existing bonds of Western Pacific Railway Company. The underwriting syndicate will thus be called upon to take approximately $12,500,000.00 of said issue of bonds. The call for the various installments of these bonds will be deferred in so far as reasonably possible so as to prevent the unnecessary accumulation of interest on funds not immediately used.

In order to carry out said plan and agreement, the reorganization committee has caused the incorporation in California of The Western Pacific Railroad Company, one of the petitioners herein, which is to act as the operating company referred to in the plan. The Western Pacific Railroad Company was incorporated on June 5, 1916, for the term of fifty years. The company is given power to acquire, operate and maintain the property now belonging to Western Pacific Railway Company and to construct, purchase, maintain and operate other lines of railroads in the states of California, Nevada and Utah. The articles confer power specifically to purchase or construct a number of branch lines in California, including branch lines from Carbona, San Joaquin County, to Tesla, Alameda County, a distance of twenty miles; from Hawley, Plumas County, to Boca, Nevada County, a distance of forty miles; from Lathrop, San Joaquin County, to Porterville, Tulare County, a distance of one hundred and eighty miles; from Niles, Alameda County, through San Jose to Los Gatos, Santa Clara County, a distance of twenty-eight miles; from Stockton, San Joaquin County, to Byron, Contra Costa County, a distance of eighteen miles; from Lodi, San Joaquin County, to Isleton, Sacramento County, a distance of twenty-five miles, and from Sacramento, Sacramento County, to Newcastle, Placer County, a distance of twenty-eight miles. The estimated length of the main line of railroad and of said branch lines is alleged to be 1,300 miles. The corporation is authorized to issue capital stock

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of the par value of $75,000,000.00, consisting of 750,000 shares of the par value of $100.00 each. The authorized capital stock is divided into $27,500,000.00, par value, of preferred stock and $47,500,000.00, par value, of common stock. The preferred stock is noncumulative and is to receive dividends, if earned, at the rate of but not to exceed 6 per cent per annum out of the surplus profits of the corporation for each fiscal year. The directors are empowered, if they consider such course advisable, to distribute, pro rata, without preference or priority, to all the stockholders of the corporation, such cash or securities as may be received on account of the claims of the holders of the existing first mortgage bonds of Western Pacific Railway Company against The Denver and Rio Grande Railroad Company. The preferred stock is to have preference in distribution of assets. The board of directors may at any time redeem the whole or any part of the outstanding preferred stock on any dividend date at $105.00 per share and accrued dividends. Any holder of preferred stock may at any time convert such stock into common stock, dollar for dollar of par value, by presenting and surrendering his common stock. The articles provide that all the stock of the corporation shall be nonassessable.

It is provided that the corporation shall not incur any bonded indebtedness secured by mortgage upon its property, in excess of $50,000,000.00, principal amount of bonded indebtedness, without the consent of the holders of at least two-thirds in amount of all the capital stock of each class then outstanding.

Provision is made that if the corporation should acquire any claim or claims against The Denver and Rio Grande Railroad Company arising out of the agreement of June 23, 1905, or any endorsement or guarantee of The Denver and Rio Grande Railroad Company upon the first mortgage bonds of Western Pacific Railway Company, no settlement or compromise of such claims shall be effectual unless authorized or ratified by the owners of two-thirds of the outstanding capital stock.

The articles recite that capital stock of the par value of $1,500,000.00 has been subscribed for and that at least 10 per cent of the capital stock subscribed for has been paid to the treasurer of the corporation.

The Western Pacific Railroad Company has made arrangements through three individuals, referred to as the "purchasers," to bid for the property of Western Pacific Railway Company at the sale on June 26, 1916. The agreement between these "purchasers" and The Western Pacific Railroad Company is set forth in copy of agreement which is marked Exhibit "K," and attached to the petition herein.

The "purchasers" and the members of the reorganization committee are joined as parties to this petition, but the Railroad Commission's consent would not seem to be necessary to any act contemplated to be performed by them.

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The Western Pacific Railroad Company now asks authority from the Railroad Commission to perform the following acts:

1. To issue $47,500,000.00, par value, of common stock and $27,500,000.00, par value, of noncumulative preferred stock.

Thirteen shares of common stock having a par value of $1,300.00 are to be issued to the thirteen directors of the corporation, when said stock has been paid for in full; 474,987 shares of the common capital stock, having a par value of $47,498,700.00, and 275,000 shares of the preferred stock, having a par value of $27,500,000.00, are to be issued to the holding company in payment, together with not to exceed the sum of $2,000,000.00 to be derived from the sale of first mortgage bonds, for the existing property of Western Pacific Railway Company. The holding company will hereafter be incorporated under the laws of Delaware and will issue its own stock, consisting of common stock of the par value of $47,500,000.00 and preferred stock of the par value of $27,500,000.00, to the reorganization committee, which committee will distribute said stock among the depositing bondholders and otherwise dispose of the same as provided in the plan.

2. To issue first mortgage gold bonds of the face value of $20,000,000.00, being portion of an issue to be authorized in the sum of $50,000,000.00, face value, to be secured by a first mortgage on the property of The Western Pacific Railroad Company. These bonds are to mature on March 1, 1946, the first issue is to bear interest at the rate of 5 per cent per annum, and all the bonds are to be redeemable at par and accrued interest.

The proceeds from the sale of said bonds, which are to be sold at 90 per cent of their face value, plus accrued interest, together with the sum of $600,000.00 in cash to be secured from the receivers, are to be used as follows:

(*a*) To pay the distributive shares of nonassenting bondholders, underwriting commission, expense of foreclosure and reorganization, including court costs, compensation and allowances of the receivers and their counsel, the mortgage trustee and its counsel, taxes on the creation and issue of new securities, the compensation and expenses of the protective and reorganization committees, their depositaries and counsel, the fees of engineering, accounting and other experts, engraving and printing, and miscellaneous requirements, $2,000,000.00.

(*b*) For betterments of the existing property, $2,579,750.00.

(*c*) For the acquisition of new passenger and freight equipment, $3,514,000.00.

(*d*) For the acquisition of extensions and feeders and additional new property, the payment of the receivers' car trust obligations, the establishment of working capital, the making good of possible deficits in the funds provided for in *a*, *b* and *c* and for a possible

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protection of the claims against The Denver and Rio Grande Railroad Company, $10,506,250.00.

3. To execute to First Federal Trust Company and Alvin W. Krech, trustees, a deed of trust or mortgage to secure the proposed issue of first mortgage bonds of the face value of $50,000,000.00, substantially in the form attached to the petition herein, marked Exhibit "F."

Petitioners stated at the hearing that The Western Pacific Railroad Company desired to make a number of alterations in the draft of the mortgage or deed of trust attached to the petition herein. When such alterations have been made, a revised deed of trust or mortgage may be presented to the Railroad Commission and may thereafter be made the subject of a supplemental order.

The following table shows the indebtedness, capital stock and the interest charges of Western Pacific Railway Company and of The Western Pacific Railroad Company, if the reorganization as contemplated in the plan hereinbefore referred to is accomplished:

TABLE No. VI.

Indebtedness, Capital Stock, and Interest Charges of Western Pacific Railway Company and The Western Pacific Railroad Company.

Obligations, capital stock outstanding	Western Pacific Railway Company (old company)	The Western Pacific Railroad Company (new company)
First mortgage bonds	$50,000,000 00	$20,000,000 00
Second mortgage bonds	25,000,000 00	None
Unsecured debt	26,800,000 00	None
Miscellaneous claims ascertained by receivers	163,625 54	None
Capital stock	75,000,000 00	75,000,000 00
Preferred		27,500,000 00
Common		47,500,000 00
Interest charges (first mortgage bond interest)	2,500,000 00	1,000,000 00
Other interest (as of date of appointment by receivers)	*2,200,000 00	None

*Accruing but in principal part never paid.

The data with reference to Western Pacific Railway Company is given as of December 15, 1915. The unsecured debt, miscellaneous claims and other interest charges are somewhat modified as of the present time. While the entire capital stock of The Western Pacific Railroad Company, amounting to $75,000,000.00, par value, will be issued to the holding company, there will be somewhat less than this amount of the capital stock of the holding company in the hands of the public by reason of the fact that certain of the bondholders of Western Pacific Railway Company have not assented to the plan and that the preferred and common stock of the holding company which

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otherwise would have been transferred to them by the reorganization committee will hereafter be returned to the treasury of the holding company to the extent to which it may remain in the hands of the reorganization committee after the payment of certain reorganization expenses.

In so far as the capital stock and indebtedness are concerned, the net result of the reorganization, if carried out according to the plan, will be to eliminate $75,000,000.00, par value, of capital stock, $50,000,000.00, face value, of first mortgage bonds, $25,000,000.00, face value, of second mortgage bonds, unpaid interest on said bonds, together with other indebtedness in excess of $25,000,000.00, of Western Pacific Railway Company, and to substitute therefor $47,500,000.00, par value, of common stock, and $27,500,000.00, par value, of preferred stock of The Western Pacific Railroad Company. The $20,000,000.00, face value, of first mortgage bonds to be issued by The Western Pacific Railroad Company are not to be considered in making this comparison, for the reason that the proceeds of said bonds, amounting to approximately $18,000,000.00, with the exceptions herein noted, will be invested in new property. When this investment has been made, the bond interest charges of the new company will be only $1,000,000.00 per year as contrasted with bond interest charges amounting to $2,500,000.00 of the existing company. Assuming that the expenditure of the moneys to be derived from the sale of the first mortgage bonds of the face value of $20,000,000.00 will result in the addition to the existing property of 250 miles of branch lines and extensions, the total bonded indebtedness of the new company will be less than $20,000.00 per mile as contrasted with a bonded indebtedness of the Southern Pacific Company for the fiscal year ending June 30, 1914, of $60,669.00 per mile, and a bonded indebtedness of The Atchison, Topeka and Santa Fe Railway Company during the same period of $28,712.00 per mile.

The foregoing comparisons would seem to indicate that from the point of view of the success of the new railroad, the plan of reorganization presented to the Railroad Commission is an excellent plan. We may reasonably expect that even during the first few years, the reorganized railroad will have no difficulty in earning the interest on the first mortgage bonds which it proposes to issue. While it is probable that full dividends will not be earned on the preferred stock for a number of years to come, it is reasonable to assume that with the construction of feeders as contemplated, the property will in time be able to pay dividends on the preferred stock as well as interest on its indebtedness. The common stock will represent such equity as there may exist in the property. While the market value of the

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property, as deduced from its earning capacity, is unquestionably considerably less than the face value of the securities provided in the plan of reorganization, the plan presented is a very great improvement over the financial setup of Western Pacific Railway Company and commends itself to us as worthy of adoption. With an improvement in its financial condition, the new company will no doubt at an early date desire to make appropriations for the increased safety of its passengers and the public by the gradual installation of a block signalling system and the elimination of dangerous grade crossings.

The Railroad Commission will, at the present time, give its general approval to the proposed plan of reorganization, in so far as its approval is necessary. Supplemental orders will hereafter be made when the purchaser of the property of Western Pacific Railway Company has been definitely ascertained, when the purposes for which the proceeds of the bonds to be issued by The Western Pacific Railroad Company have been presented to the Railroad Commission in detail and when a copy of the proposed mortgage or deed of trust of The Western Pacific Railroad Company in its final form, has been presented to the Railroad Commission. The authorization to Western Pacific Railway Company to convey its property will, as usual, contain a description of such property, and also a provision that the purchaser will never claim, before the Railroad Commission or any court or other public body, any value, in any proceeding, for its franchise or permits in the State of California in excess of the sum paid therefor by the original grantee. The petition herein alleges that none of the stock or bonds of The Western Pacific Railroad Company are to be issued or used in capitalizing the right to be a corporation, or any franchise or permit, or the right to own, operate or enjoy any such franchise or permit, or any contract for consolidation or lease.

We are of the opinion that the reorganization committee should be commended for having presented to the Railroad Commission a plan of reorganization under which Western Pacific Railway Company, in its reorganized form, may have a fair chance to succeed and to fulfill the high hopes which were entertained by the people of California when the railroad was constructed.

ORDER.

Western Pacific Railway Company having applied to the Railroad Commission for an order authorizing the conveyance of its entire property to the successful bidder for said property on foreclosure and sale in the case of *The Equitable Trust Company of New York as Trustee,* Complainant, vs. *Western Pacific Railway Company et al.,* Defendants, Equity No. 169, now pending in the District Court of

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the United States for the Northern District of California, and The Western Pacific Railroad Company having applied to the Railroad Commission for an order authorizing the issue of capital stock and first mortgage bonds, as hereinafter set forth, and the execution of a deed of trust or mortgage to First Federal Trust Company and Alvin W. Krech, trustees, to secure an authorized issue of first mortgage 5 per cent bonds of a total face value of $50,000,000.00, and a public hearing having been held on said application, and the Railroad Commission finding that the purposes for which said capital stock and bonds are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

I.

Western Pacific Railway Company is hereby authorized to sell and convey its entire property to the successful bidder for said property in the foreclosure proceedings now pending in the District Court of the United States for the Northern District of California, in the proceeding entitled *The Equitable Trust Company of New York, as Trustee,* Complainant, vs. *Western Pacific Railway Company et al.,* Defendants, Equity No. 169; provided that no conveyance of said property shall be executed until the Railroad Commission shall have issued a supplemental order naming the purchaser, describing the property to be conveyed and prescribing such conditions, if any, as the Railroad Commission may find to be just and proper.

II.

If the Western Pacific Railroad Company or its agents shall be the successful bidder for the property of Western Pacific Railway Company in the foreclosure proceedings referred to in the first paragraph of this order, the Railroad Commission will hereafter make its supplemental order herein, authorizing The Western Pacific Railroad Company to issue 475,000 shares of its common capital stock of the par value of $47,500,000.00; 275,000 shares of its preferred capital stock of the par value of $27,500,000.00; and $20,000,000.00, face value, of its first mortgage gold bonds, to mature on March 1, 1946, and to bear interest at the rate of 5 per cent per annum, payable on the first days of March and September, and to be redeemable at the face amount thereof and accrued interest thereon, on the following conditions and not otherwise, to wit:

(*a*) The Western Pacific Railroad Company will be authorized to issue 13 shares of its common capital stock of the par value of $100.00 each, to its thirteen directors, one share to each director, upon the payment for said capital stock, in cash at par.

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(*b*) The Western Pacific Railroad Company will be authorized to issue 474,987 shares of its common capital stock of the par value of $47,498,700.00 and 275,000 shares of its noncumulative 6 per cent preferred stock of the par value of $27,500,000.00 to a holding company, to be hereafter incorporated, in total payment, with the exception of a sum not to exceed $2,000,000.00 in cash, hereafter referred to, for the entire property of Western Pacific Railway Company.

(*c*) The Western Pacific Railroad Company will be authorized to issue its first mortgage 5 per cent gold bonds of the face value of $20,000,000.00, to be secured by the deed of trust or mortgage hereinafter referred to, on the following conditions and not otherwise:

(1) Said bonds shall be sold so as to net The Western Pacific Railroad Company not less than 90 per cent of their face value, plus accrued interest.

(2) The proceeds from the sale of said bonds shall be used for such purposes as shall hereafter be specified in a supplemental order or orders, when detailed statements of the purposes for which said expenditures are to be incurred shall have been filed by The Western Pacific Railroad Company, such purposes, in general, being as follows:

(*a*) To pay the distributive shares of nonassenting bondholders, underwriting commission, expenses of foreclosure and reorganization, including court costs, compensation and allowances of the receivers and their counsel, the mortgage trustee and its counsel, taxes on the creation and issue of new securities, compensation and expenses of the protective and reorganization committees, their depositaries and counsel, fees of engineering, accounting and other experts, engraving, printing and miscellaneous requirements, not to exceed the sum of $2,000,000.00.

(*b*) For betterments to the existing property of Western Pacific Railway Company, not to exceed the sum of $2,579,750.00.

(*c*) For the acquisition of new passenger and freight equipment, not to exceed the sum of $3,514,000.00.

(*d*) For the acquisition by purchase, construction or otherwise of extensions and feeders, including payment of interest during construction, the acquisition of additional new property, the payment of receivers' car trust obligations, the provision of working capital, and the possible protection of claims against The Denver and Rio Grande Railroad Company, not to exceed the sum of $10,506,250.00.

III.

Such supplemental order or orders as are hereafter issued herein with reference to the issue of capital stock and bonds will contain the usual conditions with reference to accounting, the time within which

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the authority granted shall be exercised and the payment of the fee on the issue of bonds.

IV.

If the Western Pacific Railroad Company, or its agents, shall be the successful bidder at foreclosure sale in said proceeding now pending in the District Court of the United States for the Northern District of California, said company may hereafter present to the Railroad Commission its proposed deed of trust or mortgage to First Federal Trust Company and Alvin W. Krech, as trustees, in its revised form, whereupon, if satisfactory in form and substance, the Railroad Commission will make a supplemental order authorizing the execution of such deed of trust or mortgage.

V.

In so far as the Railroad Commission's consent may be necessary to the execution of the plan of reorganization referred to in the opinion which precedes this order, in respects which have not been covered by the preceding sections of this order, the Railroad Commission hereby gives its consent to the execution of said plan of reorganization, subject to the terms and conditions of the foregoing sections of this order.

Dated at San Francisco, California, this 22d day of June, 1916.

DECISION No. 3454.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY FOR PERMISSION TO ISSUE CERTAIN NOTES.

Application No. 2267.

Decided June 23, 1916.

Applicant granted permission to issue two promissory notes of the aggregate face value of $25,000.00, secured by bonds of the face value of $42,000.00, such notes to be issued in renewal of two notes at present held by the First National Bank of Oakland.

Jesse Steinhart, for Applicant.

REPORT OF THE COMMISSION.

Whereas Oakland, Antioch and Eastern Railway has applied to this Commission for authority to issue two notes to First National Bank of Oakland; one in the sum of $15,000.00, to refund a note of like amount dated November 22, 1915, and due ninety days after date, and the other in the sum of $10,000.00, to refund a note of like amount dated October 25, 1915, and due ninety days after date; and

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Whereas this Commission has heretofore given authority to this applicant to issue said notes of $15,000.00 and $10,000.00, and to pledge as security therefor bonds of Oakland, Antioch and Eastern Railway to the face value of $42,000.00; and

Whereas this Commission has heretofore found that the purposes for which said notes, dated November 22, 1915, and October 25, 1915, for $15,000.00 and $10,000.00, respectively, were issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Oakland, Antioch and Eastern Railway be and it is hereby granted authority to issue two promissory notes, one in the sum of $15,000.00 and the other in the sum of $10,000.00, said notes to be issued to First National Bank of Oakland.

It is further ordered that the applicant be and it is hereby granted authority to pledge as collateral security for said notes its bonds of the face value of $42,000.00.

The authority herein given is given upon the following conditions, and not otherwise:

1. The notes herein authorized to be issued shall be issued for the purpose of refunding two notes now outstanding in the sums of $15,000.00 and $10,000.00, respectively, payable to the First National Bank of Oakland.

2. The notes herein authorized to be issued shall bear interest at not to exceed six (6) per cent per annum, and shall mature not later than June 30, 1917.

3. The bonds herein authorized to be pledged shall be pledged at such ratio that the face value of the notes, or either of them, shall at no time be less than sixty (60) per cent of the value of the bonds pledged as collateral therefor.

4. The applicant shall, on or before the twenty-fifth day of each month, make verified reports to this Commission stating the face value, date of issue, payee, maturity and rate of interest of the notes herein authorized to be issued, and the notes refunded thereby.

It is further ordered that Oakland, Antioch and Eastern Railway be and it is hereby granted authority to issue notes to refund the notes herein authorized to be issued, and to pledge bonds as collateral security for said notes under the terms and conditions heretofore set out in reference to the two notes herein authorized to be issued.

The authority herein granted shall apply to such notes as shall have been issued and such bonds as shall have been pledged on or before June 1, 1917.

Dated at San Francisco, California, this 23d day of June, 1916.

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DECISION No. 3455.

IN THE MATTER OF THE APPLICATION OF W. F. BOARDMAN AND CHAS. F. LEEGE AS OPERATING OWNERS OF GAS SYSTEM IN THE CITIES OF HUNTINGTON BEACH AND NEWPORT BEACH TO INCREASE RATES OR DISCONTINUE OPERATIONS.

Application No. 2329.

Decided June 23, 1916.

Applicant's operating expenses being considerably in excess of its income, it is granted permission to establish an increased schedule of rates for gas, which include a minimum monthly charge of $1.00 at $1.50 per 1,000 cubic feet for first 5,000, graduating to $1.00 per 1,000 cubic feet for amounts used in excess of 20,000 cubic feet.

Sanborn & Rochl, for Applicant.

A. F. Nelson, for City of Huntington Beach.

Clyde Bishop, for City of Newport Beach.

REPORT OF THE COMMISSION.

This is an application of the owners of the former West Coast Gas Company to increase rates charged for artificial and natural gas within the cities of Huntington Beach and Newport Beach.

The rates now in effect in those cities are as follows:

Rates for artificial and natural gas:

For the first 1,000 cubic feet	$1.00
For the next 1,000 cubic feet	.95
For the next 1,000 cubic feet	.90
For the next 1,000 cubic feet	.85
For the next 1,000 cubic feet	.80
For the next 1,000 cubic feet	.75
For all in excess	.75

Minimum monthly bill, 75 cents.

The rates which petitioners desire to charge and collect were the rates in effect prior to March 1, 1916, at which time applicants voluntarily reduced their rates to those hereinabove set forth. The rates now sought to be charged are as follows:

For the first	5,000 cubic feet,	$1.50 per 1,000 cubic feet.
For the next	5,000 cubic feet,	1.40 per 1,000 cubic feet.
For the next	5,000 cubic feet,	1.30 per 1,000 cubic feet.
For the next	5,000 cubic feet,	1.20 per 1,000 cubic feet.
All over	20,000 cubic feet,	1.00 per 1,000 cubic feet.

Minimum monthly bill, $1.00.

It will not be necessary to consider at this time the difficulties which have surrounded this utility property during the past two or three years, as the Commission reviewed those facts in detail in its opinion in Application No. 2075, which was the application of Southern Counties Gas Company for a certificate of public convenience and necessity

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to furnish natural gas to municipally owned distributing systems which are in process of building in the two municipalities in question.

The applicant introduced evidence at the hearing which was held in Huntington Beach on June 12, 1916, which showed that the company's gross receipts from the sale of gas in the two municipalities is at the present time the sum of five hundred seventy-nine and 01/100 (579.01) dollars per month, and that the actual operating expenses necessary to produce that revenue are nine hundred ninety-three and 64/100 (993.64) dollars per month. The rate sought by applicant will not meet this deficit, to say nothing of providing any return upon the investment.

The city attorneys of the two municipalities appeared at the hearing and both stated that the municipalities made no opposition to the requested increase in rates.

ORDER.

Applicant having filed with this Commission its petition praying this Commission to make its order authorizing a change in the rates charged by it for natural and artificial gas in the cities of Huntington Beach and Newport Beach, California, or to discontinue service therein, and a public hearing having been held thereupon and the case having been submitted and being now ready for decision,

The Railroad Commission of California hereby finds as a fact that the rates charged by W. F. Boardman and Chas. F. Leege for artificial gas in the cities of Huntington Beach and Newport Beach are unjust and unreasonable, in so far as they differ from the rates herein established. Basing its order on the foregoing finding of fact,

It is hereby ordered that W. F. Boardman and Chas. F. Leege establish and file with this Commission within twenty (20) days from the date of this order and thereafter charge and collect for gas service supplied by them in the cities of Huntington Beach and Newport Beach the following rates:

For the first	5,000 cubic feet,	$1.50 per 1,000 cubic feet.
For the next	5,000 cubic feet,	1.40 per 1,000 cubic feet.
For the next	5,000 cubic feet,	1.30 per 1,000 cubic feet.
For the next	5,000 cubic feet,	1.20 per 1,000 cubic feet.
All over	20,000 cubic feet,	1.00 per 1,000 cubic feet.

Minimum monthly bill, $1.00.

Dated at San Francisco, California, this 23d day of June, 1916.

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DECISION NO. 3456.

IN THE MATTER OF THE APPLICATION OF J. A. GRAVES FOR AUTHORITY TO INCREASE WATER RATES.

Application No. 2336.

Decided June 24, 1916.

Applicant granted permission to put into effect, July 1, 1916, an increased schedule of rates, including a minimum charge of $1.25 per month, entitling consumer to 1,000 cubic feet of water. A monthly charge of $1.50 per fire hydrant is also provided for.

O'Melveny, Stevens & Millikin, by *Sayre Macneil,* for Applicant.

REPORT OF THE COMMISSION.

Applicant seeks authority to increase rates for water served in South Pasadena, San Marino and Alhambra, all in Los Angeles County. About 95 per cent of his consumers have signed written consent to the establishment of the rate requested. Several have not been communicated with. None have objected.

Applicant owns a half interest in a tract of land in South Pasadena and in the water tunnels, wells and pumping plants located thereon, from which he serves water through 129 service connections, three of which are for irrigation use and the remainder for domestic use. He began serving in 1900. His investment to date is stated as $80,000.00, and his estimate of the value of his interest is $125,000.00. This is composed very largely, however, of real estate not used or useful in the service of the public, which was segregated from the public utility property by Decision No. 3256, March 14, 1916. The tract consists of 49 lots, four of which and a fraction of a fifth are entirely devoted to the use of the utility. Rights of way for water tunnels affect 13 others. The right to underground water in the remaining lots is also reserved to the utility. The value of the easements, land and water rights referred to was not definitely shown herein and it does not appear to be necessary to exactly determine the fact. The real estate used is carried in applicant's annual reports for 1914 and 1915 at $12,000.00, and the total fixed capital installed prior to December 31, 1915, is carried at $76,535.03. No appraisal of applicant's property nor expert engineering testimony was offered at the hearing. A rough estimate of the value of applicant's utility property, based on the usual cost of laying pipe, building reservoirs and constructing tunnels, results in a considerably smaller figure.

Applicant's operating revenue for 1915 is reported as $5,541.12, and operating expenses, including taxes but not including depreciation,

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at $2,134.00, in which is included $114.04 of worthless accounts charged off during the year. A calculation based upon the rough estimate referred to shows that the rate requested by applicant, which is set forth in the order herein, being the rate also set forth in each written consent referred to, is a moderate rate compared with other rates in force in the vicinity, and is probably not sufficient to afford applicant an adequate return upon his investment. It has not seemed to us, under the circumstances presented in this case, necessary to have a detailed valuation of this utility.

ORDER.

J. A. Graves having applied to the Railroad Commission for authority to increase rates charged for the distribution of water, and a public hearing having been held thereon, it is hereby found as a fact that the rates now charged, in so far as they differ from the rates herein found to be reasonable, are unreasonable and unjust, and the rates hereinafter set out are found to be just and reasonable rates to be charged for the distribution of water by J. A. Graves to his consumers; and basing its order on the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered that J. A. Graves be and he is hereby authorized and empowered to charge and collect, from and after July 1, 1916, the schedule of rates shown below for the service of water to the inhabitants of South Pasadena, San Marino, Alhambra and vicinity, and he is hereby directed to file with this Commission, within twenty (20) days from the date of this order, his schedule of said rates, with rules and regulations governing the service of water. Said rates are as follows, to wit:

1,000 cubic feet or less	$1.25 per month
1,000 to 5,000 cubic feet	10 cents per 100 cubic feet
Over 5,000 cubic feet	08 cents per 100 cubic feet
Each fire hydrant	1.50 per month

The authority hereby granted is upon the following condition, and not otherwise:

The authority herein granted shall not be considered or treated in any proceeding before this Commission or any other tribunal as a finding by this Commission of value for any purpose other than that of the present application.

Dated at San Francisco, California, this 24th day of June, 1916.

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DECISION NO. 3457.

CENTRAL CALIFORNIA TRACTION COMPANY
vs.
STOCKTON TERMINAL AND EASTERN RAILROAD COMPANY.

Case No. 948.

Decided June 24, 1916.

Petition of complainant for an order of the Commission compelling the continuance of an agreement governing the operation of trains of both companies over two certain crossings at Cherokee lane.

Subject matter of complaint considered from the viewpoint of public safety and not upon the legal points involved in the agreement heretofore entered into between parties in interest. Trains and cars of both companies to be brought to a full stop 200 feet from crossings. Rules governing precedence of trains and cars of different classes of one company over those of another also established.

A. L. Levinsky, for Complainant.

H. C. Wuerth, for Defendant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In this complaint the Central California Traction Company alleges that the provisions of a certain agreement covering the operation of two crossings of the complainant's line with that of the Stockton Terminal and Eastern Railroad Company in the city of Stockton had been canceled by the defendant company and the Commission is requested to order a continuation of this agreement on the ground that it is for the best interests of the traveling public. A public hearing on this case was held at Stockton on June 20, 1916, the matter was submitted and is now ready for decision.

At the time of construction of the Central California Traction Company's interurban line between Sacramento and Stockton its main line entered Stockton over the public highway known as Cherokee lane and crossed the track of the Stockton Terminal and Eastern Railroad on that highway. When the line was put in operation the cars of the complainant, Central California Traction Company, were brought to a stop before crossing the line of the Stockton Terminal and Eastern Railroad, while those of the latter company crossed Cherokee lane without making a safety stop. Subsequently a new track was laid by the Central California Traction Company on private right of way which left Cherokee lane and crossed the tracks and private right of way of the Stockton Terminal and Eastern Railroad at a point approximately 500 feet east of the old crossing. This new method of access to the city relieved the Cherokee lane crossing of most of the cars and trains of the traction company, their local street car service in Stockton, and

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some of their freight trains. To facilitate the handling of the traction company's traffic over its new main line an agreement was entered into between the respective companies in March, 1912, whereby the trains of the traction company were not required to stop at the new crossing but could pass over it under control. The trains of the Stockton Terminal and Eastern Railroad, however, were to make a safety stop before proceeding over the crossing. It was provided in this agreement that the trains of the Stockton Terminal and Eastern were to pass over the Cherokee lane crossing under control, but the cars and trains of the traction company were to be brought to a full stop before passing over this crossing. This agreement contained a clause providing for its cancelation after thirty days' notice by either party. In accordance with this clause in the agreement the Stockton Terminal and Eastern Railroad served notice, under date of April 20, 1916, upon the traction company that the agreement would be revoked. The Central California Traction Company thereupon filed this complaint.

The traffic over the main line of the Central California Traction Company consists of 48 regular passenger trains per day, each train usually consisting of one car. One freight train each way is regularly operated, and there are from one to two extra freight trains according to the volume of business. The average freight train consists of eight cars, although in the fruit season longer trains are operated; one instance being given where one train of 28 cars had been operated over this crossing.

The Stockton Terminal and Eastern operates during the busy season, in addition to its scheduled passenger service, two freight trains in each direction which average from 12 to 20 cars. The president of that company stated that two collisions had occurred at the Cherokee lane crossing, and his company had abrogated the previously mentioned agreement because the cars and trains of the Central California Traction Company passed over the main line crossing at such excessive speed that there was danger of an accident occurring at this point.

Witnesses for both companies were inclined to place much weight on the legal rights of their respective companies under the agreement which had been discussed. I am inclined to think that section 42 of the Public Utilities Act, which gives the Commission wide powers over the safety of public utility operation, was included in the act to give the Commission full jurisdiction in just such cases, and I propose to make my recommendations rather on the broader ground of public safety than on a strict interpretation of the agreement.

The conditions surrounding these crossings were thoroughly investigated by the Commission and representatives of the engineering department and service department both testified at the hearing. There are, it seems, two things which can be done to make the operation of these

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crossings safe. One is the construction of an interlocking plant and the other is to require the trains of both companies to come to a full stop at both crossings.

A complete interlocking plant would cost from thirty-five to forty thousand dollars and is plainly not to be considered at this time. Possibly some method of protection by means of hand-operated derails can be designed, which will afford about the same protection as an interlocking plant, at much less cost, and the Commission will be ready to consider any plans of this sort which may be submitted to it, by both companies jointly, or by either company if they can not agree. In the meanwhile safety of operation can be secured only if both companies are required to bring their trains or cars to a full stop before passing over these crossings. It is clear that the safety of the traveling public and the employees of the two companies is of much more importance than the operating convenience which would be gained by permitting either company to run either of these crossings without a safety stop.

There are several clumps of trees at and near these crossings which obscure the view of trainmen and which should be removed or trimmed high enough to relieve this condition. This matter was previously taken up with the companies by our service department and at the hearing it was stated that this would be done.

I recommend the following form of order:

ORDER.

Central California Traction Company having filed complaint against the Stockton Terminal and Eastern Railroad Company asking the Commission to make its order requiring the provisions of a certain agreement regarding the operation of two railroad crossings at grade to remain in force; and a public hearing having been held and the Commission being fully advised in the premises,

It is hereby ordered that the Central California Traction Company and the Stockton Terminal and Eastern Railroad Company shall hereafter observe the following regulations in the operation of cars and trains at the two railroad crossings at grade in the city of Stockton, one at Cherokee lane and the other at a point approximately 500 feet east of said Cherokee lane:

(1) All trains or cars of both companies shall be brought to a full stop at a distance of two hundred (200) feet from the crossing, and shall not pass over the same until it has been ascertained that it is safe to do so.

(2) Signboards with the legend, "Railroad Crossing—Stop" shall be erected by each company along its own track at approaches to each crossing, and these signs shall be located two hundred (200) feet from the crossing where the safety stop is to be made.

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(3) When trains of both companies approach a crossing at the same time, passenger trains of the Central California Traction Company shall have precedence over passenger or freight trains of the Stockton Terminal and Eastern Railroad Company, and passenger trains of the Stockton Terminal and Eastern Railroad Company shall have precedence over the freight trains and street cars of the Central California Traction Company. Freight trains of the Stockton Terminal and Eastern Railroad Company shall have precedence over freight trains, freight motors and street cars of the Central California Traction Company.

The Commission reserves the right to make such further orders relative to the operation and protection of said crossings as to it may seem right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 24th day of June, 1916.

Decision No. 3458, grade crossing; not printed. See end of volume.

DECISION No. 3459.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE PAYMENT OF ADDITIONAL INTEREST ON OUTSTANDING BONDS, AND THE ISSUANCE OF CERTAIN ADDITIONAL BONDS.

Application No. 1516.

Decided June 24, 1916.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that this Commission's order extending time dated May 24, 1916, be and it is hereby amended as follows:

The words "or other evidences of indebtedness" shall be inserted after the word "bonds" in the third line of said order so that said line shall read as follows:

"* * * San Joaquin Light and Power Corporation may issue the bonds *or other evidences of indebtedness* authorized * * *."

It is hereby further ordered that except as herein amended said order extending time, dated May 24, 1916, shall remain in full force and effect.

Dated at San Francisco, California, this 24th day of June, 1916.

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DECISION No. 3460.

IN THE MATTER OF THE PETITION OF HENRY C. CUTTING FOR THE ESTABLISHMENT OF A GRADE CROSSING AT THE POINT WHERE CUTTING BOULEVARD INTERSECTS AND CROSSES THE RAILROAD TRACKS AND RIGHT OF WAY OF THE SOUTHERN PACIFIC RAILROAD COMPANY IN THE TOWN OF RICHMOND.

Case No. 119.

Decided June 24, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The subject matter of this case having been disposed of by adjustment between the parties without the necessity of any further order of the Commission,

It is hereby ordered that the above entitled case be and the same is hereby dismissed.

Dated at San Francisco, California, this 24th day of June, 1916.

DECISION No. 3461.

IN THE MATTER OF THE APPLICATION OF THE DIAMOND MATCH COMPANY, CENTRAL PACIFIC RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY FOR APPROVAL OF AGREEMENT COVERING JOINT USE OF TRACKS AT BARBER AND STIRLING CITY.

Application No. 2338.

Decided June 26, 1916.

REPORT OF THE COMMISSION.

Diamond Match Company, Central Pacific Railway Company and Southern Pacific Company on June 9, 1916, applied to the Commission for its approval of a certain agreement covering the joint use of the tracks at Barber and Stirling City, and there appearing to the Commission to be no reason why this agreement should not be approved,

It is hereby ordered that the agreement filed by applicants with the Railroad Commission with this application and dated January 28, 1916, be and the same hereby is approved.

Dated at San Francisco, California, this 26th day of June, 1916.

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DECISION NO. 3462.

IN THE MATTER OF THE APPLICATION OF CORONA GAS AND ELECTRIC LIGHT COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE A FIRST MORTGAGE COVERING ITS PROPERTIES IN THE STATE OF CALIFORNIA, AND ALSO FOR AN ORDER AUTHORIZING THE ISSUE, USE AND SALE OF FIRST MORTGAGE BONDS.

Application No. 1988.

Decided June 27, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission on May 24, 1916, Decision No. 3382, authorized the applicant herein to execute a mortgage upon its properties as security for an issue of first mortgage 6 per cent 50-year bonds upon condition that the applicant should first submit to the Commission for its approval a copy of its proposed mortgage or deed of trust and secure a supplemental order from this Commission approving the same; and

Whereas applicant has now submitted a proposed form of mortgage or deed of trust to this Commission, and it appearing to this Commission that the same is in proper form,

It is hereby ordered that the form of mortgage submitted by the applicant herein on June 23, 1916, and filed as Exhibit "E" be and the same is hereby approved.

The approval herein given of said mortgage is for the purpose of this proceeding only and is an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

Dated at San Francisco, California, this 27th day of June, 1916.

DECISION NO. 3463.

IN THE MATTER OF THE APPLICATION OF C. H. L. GHRIEST, JR., FOR AUTHORITY TO INCREASE ELECTRIC RATES IN BANNING.

Application No. 2239.

Decided June 27, 1916.

Conditions warranting, applicant, operating an electrical distributing system in the town of Banning, is permitted to establish, within twenty days, a schedule of lighting and power rates embodying slight increases over the schedules at present in effect.

A. H. Winder, for Applicant.

Frank L. Miller, city attorney, for City of Banning.

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REPORT OF THE COMMISSION.

Applicant is engaged in the business of supplying to the inhabitants of Banning electric energy purchased from Southern Sierras Power Company. His business is operated under the fictitious name of The Light and Power Utility.

The distributing system was placed in operation in January, 1915. The labor of installing it was done wholly by applicant and his father. No continuous record or set of accounts was kept, but various memorandum slips were made from time to time, and quite recently an accountant has sought to make up a set of books from this data and from the memory of applicant and his father. This effort resulted in a property account showing an investment up to April 30, 1916, of $6,631.12. No suitable segregation was kept of amounts properly chargeable to capital and those to income, nor of earnings distributed.

At the hearing in Banning, applicant presented no appraisal but called as his witness Mr. Jas. F. Pollard, one of the Commission's assistant electrical engineers, who had made an examination of the system and had prepared a partial report upon it. It was stipulated that the data at hand should be used at the hearing and that Mr. Pollard's report, when completed and received by the Commission, should be received in evidence. The report contains the estimated reproduction cost of the system, and we have shown in a parallel column the corresponding items made up by applicant's accountant from the data described. Said estimated costs are as follows:

Account	Commission's engineer	Accountant's
Organization	$200 00	
Franchises	138 50	$138 50
Land and rights of way	4 00	4 00
Poles and fixtures	2,966 30	2,077 10
Overhead system	1,691 38	1,844 41
Line transformers and devices	836 15	781 40
Electric services	882 50	68 08
Electric meters	1,137 25	1,330 05
Municipal street lighting	41 57	12 60
General office equipment	25 00	25 00
Shop tools and equipment	194 25	
Stable and garage equipment	175 00	
Material and supplies	450 91	
Miscellaneous equipment		349 98
Interest during construction at 1½ per cent	135 64	
Total fixed capital	$9,178 45	$6,631 12

The report shows a steady growth in the business from a total of 22 consumers in January, 1915, to 179 consumers in April, 1916, of which 112 were of residence lighting, 59 commercial lighting, two cooking, one municipal lighting and five power consumers. The report

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shows 71 possible consumers under the lines not connected. Of these, 39 will probably be connected reasonably soon, but 32 show little prospect of becoming consumers. The report also shows in detail the ten power installations connected, and that the Banning cannery has contracted for service for a 20-horsepower motor. It was reported that the city will probably install a street lighting system of about 18 lamps within about a year.

Energy is purchased from Southern Sierras Power Company at two cents per kilowatt-hour, metered on the 2,200-volt side of the transformer. Purchases to April 30, 1916, were 94,185 kilowatt-hours, amounting to $1,883.70. Of this, 66,754 kilowatt-hours were sold for $3,996.16. The energy not sold represents principally line losses.

The rates charged by the applicant at the present time are divided into three schedules, as follows:

SCHEDULE "A"—*Lighting Rate.*

First 75 K.W.H., per month, 7 cents per K.W.H.
Next 75 K.W.H., per month, 6 cents per K.W.H.
All in excess of 150 K.W.H., per month, 5 cents per K.W.H.
Minimum charge: $1.00 per month per meter.

SCHEDULE "B"—*Heating Rate.*

4½ cents per kilowatt hour.
Minimum charge: $2.00 per month per meter.

SCHEDULE "C"—*Power Rate.*

First 100 K.W.H., per month, 5 cents per K.W.H.
Next 150 K.W.H., per month, 4 cents per K.W.H.
All in excess of 250 K.W.H., per month, 3 cents per K.W.H.
Minimum charge: $1.00 per month per horsepower connected.

Estimated maintenance and operation for 1915 and 1916, based on such data as is available, is shown in the following table:

Operating Expenses (Estimated).

Item	1915	1916
Energy purchased	$1,277 00	$1,713 00
Labor	1,000 00	1,500 00
Material	68 00	68 00
Office expense	15 00	25 00
Rent	120 00	120 00
Telephone		18 00
Miscellaneous expense	35 00	35 00
Stable expenses or livery hire	96 00	100 00
Taxes, 5¼ per cent of gross revenue		212 23
Casualty insurance		150 00
Depreciation	254 46	254 46
Totals	$2,865 46	$4,195 69
Gross income	2,607 84	4,042 52
Deficit	$257 62	$153 17

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ORDER.

C. H. L. Ghriest, Jr., having applied to the Railroad Commission for authority to increase the rates charged to the inhabitants of Banning and vicinity for electric energy, and a public hearing having been held thereon, it is hereby found as a fact that the present rates charged by applicant, in so far as they differ from the rates herein found to be reasonable, are unreasonable and unjust; and that the rates hereinafter set out are hereby found to be just and reasonable rates to be charged for electric energy served to the inhabitants of Banning and vicinity; and basing its order upon the foregoing findings of fact and the further findings of fact set out in the opinion preceding this order,

It is hereby ordered that C. H. L. Ghriest, Jr., be and he is hereby authorized and empowered to establish, and is required to file with this Commission within twenty (20) days from the date of this order, the following schedule of monthly rates to be charged for electric energy served to the inhabitants of Banning and vicinity, to wit:

Schedule of Rate

SCHEDULE "A."

Lighting Rate.

Applies to all residence and commercial lighting consumers.
For the first 100 K.W.H., consumption per month, 8 cents per K.W.H.
For the next 100 K.W.H., consumption per month, 7 cents per K.W.H.
For the next 100 K.W.H., consumption per month, 6 cents per K.W.H.
For all in excess of 300 K.W.H., consumption per month, 5 cents per K.W.H.
Minimum monthly charge: $1.00 per meter.

SCHEDULE "B."

Cooking and Heating Rate.

Applies to all domestic cooking, heating and power service.
For the first 100 K.W.H., consumption per month, 4½ cents per K.W.H.
For all over 100 K.W.H., consumption per month, 3 cents per K.W.H.
Minimum monthly charge: $2.00 per meter.

SCHEDULE "C."

Industrial Power Rate.

Applies to all commercial and industrial power service.
First 50 K.W.H. consumed per horsepower connected, per month, 5 cents per K.W.H.
Next 50 K.W.H. consumed per horsepower connected, per month, 4 cents per K.W.H.
All in excess of 100 K.W.H. consumed per horsepower connected, per month, 3 cents per K.W.H.
Monthly minimum charge per horsepower connected, $1.00.
Monthly minimum bill: $1.00.

Dated at San Francisco, California, this 27th day of June, 1916.

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DECISION NO. 3464.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WHARF COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE RENEWAL OF WHARF FRANCHISE.

Application No. 2364.

Decided June 28, 1916.

Certificate issued permitting applicant to exercise rights granted under a certain wharf franchise obtained from the board of supervisors of Contra Costa County, provided that no value shall be claimed for such franchise other than the actual cost thereof.

REPORT OF THE COMMISSION.

The board of supervisors of Contra Costa County having, on June 5, 1916, granted to Port Costa Wharf Company a renewal of a wharf franchise theretofore granted on July 6, 1896, the renewal of said franchise being, in part, as follows:

"Resolved and ordered that the application of the said Port Costa Wharf Company, a corporation, for a renewal of the franchise granted by this board to the Port Costa Wharf Company, a corporation, on July 6, 1896, who is now the owner and holder thereof, be, and the same is hereby granted, and that the said franchise be, and the same is, hereby renewed, and that the said Port Costa Wharf Company, a corporation be, and it is hereby granted, for the term of twenty years, from the 5th day of June, 1916, the right to erect, construct and maintain a wharf on the place mentioned in its petition and hereinafter described, and to take tolls for the use of the same at rates to be fixed by the board of supervisors of the county of Contra Costa, state of California, on all those certain overflowed and submerged lands belonging to the state of California, over which the tide ebbs and flows, bordering on the straits of Carquinez, a navigable arm of the sea, situate in township number two, supervisor district number two, in Contra Costa County, state of California, and more particularly described as contained within the following boundaries, to wit:

Beginning at the northeast corner of the franchise granted by the board of supervisors of the county of Contra Costa, state of California, to the Port Costa Wharf Company on May 1, 1882; thence S. 47° 5′ E., along the northeast boundary line of said wharf four hundred and three and 6/10 (403.6) feet to station; thence N. 42° 55′ E., to the pier head line as established by the board of engineers of the United States Army in 1888; thence following said pier head line in a northwesterly direction to a point which bears N. 42° 55′ E., from the point of beginning; thence S. 42° 55′ W. to the point of beginning, being in quantity 32,620 square feet.

Subject, however, to the approval of the Railroad Commission of the state of California.

And Port Costa Wharf Company having filed this application for a certificate declaring that public convenience and necessity require the exercise of the rights granted by the renewal of said franchise, and

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that said renewal be approved, and it appearing to the Commission that this is not a case in which a hearing is necessary and that the application should be granted,

It is hereby ordered that the Railroad Commission hereby approves the renewal of the wharf franchise above mentioned, and declares that public convenience and necessity require the exercise by Port Costa Wharf Company of the rights granted to it by the board of supervisors of Contra Costa County in the renewal of said wharf franchise, upon the following condition, and not otherwise, to wit:

This order shall not become effective until Port Costa Wharf Company shall have filed with this Commission a stipulation, duly authorized by the board of directors of said corporation, stating that neither Port Costa Wharf Company, its successors or assigns, shall, at any time, claim before the Railroad Commission or any other body for rate fixing or other purposes, a value for said wharf franchise granted to said corporation by the board of supervisors of Contra Costa County on July 6, 1896, or the renewal of said wharf franchise granted to said corporation by the board of supervisors of said county on June 5, 1916, in excess of the actual cost of procuring the same, which cost, if any, shall be stated in the stipulation, and the Commission shall have issued a supplemental order herein stating that said stipulation has been filed, and approving the same.

Dated at San Francisco, California, this 28th day of June, 1916.

Decisions Nos. 3465, 3466, 3467, 3468 and 3469, grade crossings; not printed. See end of volume.

DECISION NO. 3470.

IN THE MATTER OF THE APPLICATION OF WILLOWBROOK WATER COMPANY FOR PERMISSION TO ISSUE 10-YEAR 7 PER CENT BONDS IN THE AMOUNT OF FIVE THOUSAND DOLLARS, SECURED BY MORTGAGE UPON PROPERTY BELONGING TO SAID CORPORATION.

Application No. 2355.

Decided June 29, 1916.

Applicant authorized to issue twenty notes of the face value of $250.00 each, bearing interest at 7 per cent per annum, such notes to be payable serially, one falling due each six months, proceeds thereof to be used for the purposes of replacing distributing mains.

John B. Haas, for Applicant.

REPORT OF THE COMMISSION.

Applicant, a public utility engaged in the business of pumping and distributing water for domestic use to the inhabitants of Willowbrook, Los Angeles County, applies to the Railroad Commission for authority to issue 10-year serial bonds bearing 7 per cent interest, in the principal

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sum of $5,000.00, to be sold at par, and the proceeds used to replace its distribution system.

A number of years ago the Willowbrook Water Company, a corporation, was organized with a capital stock of $25,000.00, divided into 2,500 shares of the par value of $10.00 each, and thereafter it installed applicant's system, part of it about eleven years ago and part of it about six years ago. The stock was given free to the purchasers of property in Willowbrook Tract, at the rate of four shares of water stock for each half acre purchased. It is stated that all of the stock was so disposed of. Subsequently, the corporate existence of said company was terminated, because of failure to pay corporation tax.

On February 13, 1912, applicant was organized with a capital stock of $25,000.00, divided into 2,500 shares of the par value of $10.00 each. The board of directors of the old company, as trustees in liquidation, transferred all of the assets of the old company to applicant, including the present system. Of the stock of the new company, only 536 shares have been issued to 71 persons who owned an equal number of shares of stock in the old company. The balance remains in the treasury "not yet exchanged." We call attention to the requirement of the Public Utilities Act, effective March 23, 1912, that the authority of the Commission should be obtained before further stock is issued.

Applicant's system consists of two pieces of real estate, two pumping plants, two small pump houses, a small residence for its engineer and two storage tanks, being valued by applicant, without pumps or distribution system at $2,460.00. No detailed valuation nor engineering testimony was presented by applicant.

Mr. H. F. Clark, one of the Commission's hydraulic engineers, made a brief examination of the property and appraised its present value, without distributing system, at about $2,200.00. He stated there might also be some salvage from the old mains. Applicant says its distributing mains are practically worthless, and are only kept in service by the liberal use of redwood plugs. It wishes to replace practically all of its distributing mains except that laid in Glenn avenue, which will be used only to furnish circulation for the remainder of its mains.

All of the streets in which applicant's mains lie are being improved by the county, and the grades are being lowered in most places to a point below applicant's present mains. Its present mains are not in physical condition to justify removal and relaying. Applicant says it has arranged to have its mains installed at cost, estimated at $1,260.00, and for ample time for payment thereof. It now has an offer of the 4,083 feet of 6-inch and the 16,906 feet of 4-inch, 16-gauge steel pipe delivered at Willowbrook for the lump sum of $4.808.71 cash. The town is at present without fire protection and the company has arranged to install about forty 2-inch taps suitable for such use.

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Mr. Fred Hoffman, the contractor who is improving the streets for the county of Los Angeles, stated at the hearing that he would guarantee the sale of the bonds at par, taking them himself if there were no other equal or better bid, and that he would also be willing to advance for it the cost of laying the mains if it became necessary for applicant to pay it unexpectedly. Since the hearing he has expressed willingness to lend the $5,000.00 on twenty notes of $250.00 each, payable semiannually, secured by trust deed providing for ninety days written notice to applicant's directors after default and before any action.

Applicant has 116 consumers on a flat rate of $1.50 per month. It reports a healthy growth in its business and that there are ten new houses ready to be built, awaiting only the assurance of adequate water service. Applicant reports its receipts and disbursements for the nine months ending May 31, 1916, as follows:

Receipts.

September, 1915	$175 35
October, 1915	155 75
November, 1915	188 75
December, 1915	152 20
January, 1916	130 00
February, 1916	160 00
March, 1916	154 00
April, 1916	167 70
May	172 40
Other than collections	81 50
Water rents credited	10 90
	$1,546 36

Disbursements.

Office	$19 89
Commissions	4 39
Labor (repairs, etc.)	151 15
Maintenanec	87 99
Printing	35 75
Attorney fees	50 00
Improvements (lumber)	7 22
Directors' salaries	71 00
Secretary-treasurer's salary	63 00
Engineer	339 00
P. L. & P. Co.—light	21 12
P. L. & P. Co.—power	148 06
Oil	20 30
Taxes	37 53
Debts of old board paid	450 43
Petty cash	30 00
	$1,536 83
Cash on hand	9 73
	$1,546 56

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It will be noticed that no depreciation allowance is provided, but that the items labor and maintenance are relatively large, and that $450.43 of old indebtedness was paid from these collections. Applicant is not indebted at present, except for current bills amounting to $239.13.

While we do not approve of utilities becoming so heavily indebted, the necessity for adequate service to the public and the reported inability to finance the improvement through stock assessments, and the fact that less than one-fourth of applicant's capital stock has been subscribed, seem to justify such an indebtedness in this instance.

ORDER.

Willowbrook Water Company having applied to the Railroad Commission for authority to issue ten first mortgage 7 per cent bonds of the face value of $500.00 each, said bonds being payable one each year, the proceeds of the sale thereof to be used in replacing its distributing mains, and a public hearing having been held thereon and applicant having at the suggestion of the Commission arranged to use secured notes rather than bonds,

It is hereby ordered that Willowbrook Water Company be and it is hereby authorized and empowered to issue twenty notes for $250.00 each, bearing interest at the rate of 7 per cenf per annum, said notes to be payable serially, one each six months, and to secure the payment of said notes by a deed of trust upon all of applicant's property, providing for ninety days written notice to applicant before beginning any proceeding to advertise or sell applicant's property, and to be in all respects in form to be approved by the Commission in writing.

The authority herein granted is upon the following conditions, and not otherwise:

1. Said notes shall be sold at a price which will net to applicant the face value thereof.

2. The authority herein granted shall not be considered or treated in any proceeding before this Commission or any other tribunal as a finding by this Commission for value for any purpose other than that of the present application.

3. This order is for the purpose of this proceeding only, and is not intended as an approval of said notes or the instrument securing their payment as to any other legal requirement to which they may severally be subject.

4. The authority herein granted shall apply only to such notes as shall have been issued hereunder on or before sixty days from the date hereof.

5. On or before the twenty-fifth day of each month applicant shall report to the Railroad Commission in writing the notes issued and the

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disposition of the proceeds of the sale thereof, all in accordance with this Commission's General Order No. 24, which is made part of this order, in so far as it is applicable.

6. This order shall not become effective until applicant has paid the fee required by the Public Utilities Act.

Dated at San Francisco, California, this 29th day of June, 1916.

DECISION No. 3471.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF CERTAIN FRANCHISE RIGHTS HERETOFORE GRANTED TO IT BY THE CITY OF SAN GABRIEL.

Application No. 2352.

Decided June 29, 1916.

Applicant granted a certificate of public convenience and necessity permitting the exercise of rights obtained under a franchise secured from the city of San Gabriel permitting the construction of gas distributing mains in said city, provided no value shall ever be claimed for such franchise other than the actual cost thereof.

J. H. Powell, for Applicant.

S. O. McFadden, city attorney, for City of San Gabriel.

REPORT OF THE COMMISSION.

Applicant seeks a certificate that public convenience and necessity require the exercise of its franchise rights to serve gas in the city of San Gabriel, Los Angeles County.

Applicant has a franchise from the city of San Gabriel contained in Ordinance No. 96, adopted June 6, 1916, granting to it the right, privilege and franchise to construct and maintain for forty years a system of gas pipes and pipe lines under and along public streets, avenues, alleys, thoroughfares and other public places in the city of San Gabriel, or in territory that may hereafter be annexed thereto. It proposes to serve gas to the inhabitants of San Gabriel at the rates now charged by it for gas served to the inhabitants of the city of Los Angeles, on a basis of 68 cents per thousand cubic feet.

Applicant began serving gas in said territory (then unincorporated) the latter part of 1911, and now serves between 230 and 240 consumers, located on mains between six and seven miles long. The families served constitute a majority of the families in the city of San Gabriel, which was incorporated in 1913. Applicant is the only utility rendering a like service in the vicinity.

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ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for a certificate that public convenience and necessity require the exercise by it of certain franchise rights heretofore granted to it by the city of San Gabriel, and a public hearing having been held thereon, it is hereby found as a fact that public convenience and necessity require and will require the exercise by applicant of the right and privilege of laying gas pipes and gas mains in the streets, alleys, thoroughfares and public places of the city of San Gabriel.

The Railroad Commission of the state of California hereby declares that public convenience and necessity require the exercise by Los Angeles Gas and Electric Corporation of the rights and privileges conferred by Ordinance No. 96 of the city of San Gabriel, adopted June 6, 1916; provided that Los Angeles Gas and Electric Corporation shall first have filed with the Railroad Commission a stipulation, duly authorized by its board of directors, declaring that Los Angeles Gas and Electric Corporation, its successors and assigns, will never claim, before the Railroad Commission or any court or other public body, a value for said rights and privileges in excess of the actual cost to Los Angeles Gas and Electric Corporation of acquiring said rights and privileges, which cost is to be stated in said stipulation, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission, has been filed with the Railroad Commission.

Dated at San Francisco, California, this 29th day of June, 1916.

DECISION No. 3472.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF YOLO FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A CROSSING AT GRADE OVER AND ACROSS THE TRACKS OF THE SOUTHERN PACIFIC COMPANY, AT THE TOWN OF DAVIS.

Application No. 2220.

Decided June 30, 1916.

Applicant granted permission to construct Olive street at grade across the tracks of Southern Pacific Company at Davis, such crossing to exist pending the completion of the subway to be built in connection with the state highway; permission conditioned upon the closing of present crossing known as Anderson and the maintenance by the railroad company of a human flagman at such crossing for twenty-four hours each day.

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C. C. McDonald and *W. O. Russell,* for Applicant.

Geo. D. Squires, for Southern Pacific Company.

A. G. Bailey, for F. G. Schmeiser.

A. G. Greive, J. A. Harby, in propria persona.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In this application the County of Yolo seeks permission to construct Olive street at grade over five tracks of the Southern Pacific Company, about three hundred (300) feet west of the station building in the unincorporated town of Davis. A public hearing was held on June 8, 1916.

The main line tracks of the Southern Pacific Company run through the southerly side of Davis in a general northeasterly and southwesterly direction. From the east edge of the town the country road runs easterly, parallel with the track and adjacent to it, and on the opposite side of the track from this road is one of the state highways which has recently been constructed, in part, and which, when it is completed, will run on the southerly side of the track to a point about six hundred (600) feet westerly from the crossing now proposed, cross beneath the tracks and follow first Front street and then Ash street in Davis to the west. The Commission, in an order, some time ago granted the highway commission permission to cross beneath the Southern Pacific tracks at the location proposed.

At the present time the two sides of the track are connected by a crossing known as the Anderson crossing, four-tenths of a mile east of the proposed extension of Olive street, and the opening of Olive street will take traffic from this crossing to such an extent that when it is opened Anderson street, in the opinion of all witnesses, can be closed and abandoned.

The highway commission was not represented at the hearing, but it is interested in this application, as the ruling of the Commission on the permission asked for herein will materially affect the routing of the traffic which follows the state highway until the uncompleted section through Davis, which includes the subway, is finished. The position of the highway commission is set forth in a letter to the Commission. It is the opinion of that body that the proposed crossing will be a much safer crossing than the Anderson crossing, and that it will not be needed when the state highway subway is completed.

The Southern Pacific opposed the granting of this application on the ground that it has ordered the steel necessary to build the subway and that the granting of this application would delay its construction; and for the further reason that the present Anderson crossing is no

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more dangerous than the crossing at Olive street would be. I can not see that the opening of Olive street would in any way delay the construction of the subway, and that being the case the question is, which of these two crossings, the Anderson or the proposed Olive street crossing, will the better serve public convenience when the comparative danger of the two crossings is taken into consideration. There is no question in my mind but that the Olive street crossing is the one which should be opened. All of the witnesses for the applicant were of the opinion that it would be a safer crossing than is the Anderson crossing, and I agree with them. Of the sixty regular trains which pass through Davis, all but four stop at the Davis station. The Olive street crossing is but three hundred (300) feet from the station, while the Anderson crossing is over two thousand (2,000) feet away, and this, in itself, is evidence that the Olive street crossing, where all but four trains necessarily pass at slow speed, other things being equal, would be the safer of the two crossings. The other considerations, however, are not equal. At the Anderson crossing road traffic makes two right angle turns, the grades of approach are steep, and it is difficult for these reasons for drivers to see approaching trains. At the Davis crossing traffic will approach the track on a practically level grade in such a manner that a good view can be had of trains coming from either direction. The Anderson crossing, in addition to the bad features mentioned, crosses four tracks, two of which, the two outside tracks, are frequently occupied by cars standing so close to the crossing that no view can be obtained of the center tracks until vehicle drivers are too close upon them to enable them to stop if a train is approaching.

I have previously said that if Olive street were opened across the tracks, the Anderson crossing should be closed. It can then be closed without inconvenience, and when the subway on the state highway is opened this Olive street crossing can be also closed. Although Olive street will, as I have said, make a far safer crossing than the Anderson crossing, the large amount of road traffic which will use it, the number of trains which will pass over it and the five tracks to be crossed, make it desirable that a human flagman should protect it as long as it is open. In view of the dangerous condition existing at the Anderson crossing, which was thoroughly gone into at the hearing, I am satisfied that if this crossing remained open, it should be protected by a human flagman. Since it will be closed with the opening of Olive street, the same protection should be afforded the Olive street crossing.

It is clear to me that when a subway is constructed the Olive street crossing, which is but six hundred (600) feet away, should be closed. I am unwilling to recommend an order permitting the crossing to remain open until the subway is built, as such an order might have a tendency to postpone its construction; but as I am convinced that

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it will be built within a year from this date, the Olive street crossing should be permitted to remain open for that length of time. If the subway is not then built, the Commission, if it desires, can extend this time.

I recommend the following form of order:

ORDER.

Yolo County, California, having applied to the Commission for permission to construct Olive street, at grade, across the tracks of the Southern Pacific Company, and a public hearing having been held and it appearing that this application should be granted, subject to certain conditions,

It is hereby ordered that permission be and the same is hereby granted to Yolo County, California, to extend Olive street across the tracks of the Southern Pacific Company at the point and in the manner shown by the map attached to this application, said crossing to be constructed subject to the following conditions:

(1) The entire expense of constructing this crossing shall be borne by applicant.

(2) The expense of maintaining this crossing thereafter, between the tracks and to a point two (2) feet outside of the outer rails of the crossing, shall be borne by the Southern Pacific Company.

(3) The expense of maintaining the crossing from a point two (2) feet outside of the outer rails shall be borne by applicant.

(4) The crossing shall be constructed of a width of not less than twenty-four (24) feet, with grades of approach not exceeding three (3) per cent, and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(5) For the protection of this crossing the Southern Pacific Company shall install a human flagman, who shall be on duty twenty-four (24) hours per day.

(6) The existing crossing over the Southern Pacific tracks, known as the Anderson crossing, shall be legally closed and abandoned as a public highway crossing.

(7) The permission herein granted is granted for a term of one year from the date of this order.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity damand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 30th day of June, 1916.

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Decision No. 3473.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF RIVERSIDE FOR AUTHORITY TO CONSTRUCT A CROSSING AT GRADE OVER THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY ON MAGNOLIA AVENUE, RIVERSIDE COUNTY.

Application No. 2016.

Decided June 30, 1916.

Applicant applies for permission to construct Magnolia avenue at grade across the tracks of Santa Fe Railway Company. The proposed construction consists of widening an existing crossing, and it appearing that it will materially benefit the railroad company as well as applicant, application granted, the railroad and applicant to share the expense on an equal basis.

Lyman Evans, district attorney, for Applicant.

W. M. Reed, for The Atchison, Topeka and Santa Fe Railway Company.

Report of the Commission.

Gordon, *Commissioner.*

This application was filed with the Commission on December 20, 1915, and looks to the opening of a portion of Magnolia avenue over the main line track of The Atchison, Topeka and Santa Fe Railway Company. A public hearing was held on June 12, 1916.

Strictly speaking, the crossing here under consideration is not a new crossing, but the widening of an old one. Magnolia avenue, one of the principal highways of the county, was crossed by the Santa Fe Railway Company during the construction of that road many years ago, when the traveled highway was comparatively narrow. Within the last two or three years the Pacific Electric Railroad secured a right of way on the highway, on the northerly side of the traveled portion of the road, built a railroad upon it and thus separated the crossing then in use from the crossing sought to be opened under this application.

The county now desires to improve that portion of Magnolia avenue which is north of the Pacific Electric Railroad, and it desires to make this crossing in connection with this improvement. There seems to be no reason why this permission should not be granted. The construction of this crossing will probably make it unnecessary for vehicles to cross and recross the Pacific Electric tracks as they now do, and the view at the crossing is open and no protection seems to be needed other than the usual crossing sign.

Inasmuch as this crossing is more of an improvement on the existing crossing than a new one, it appears to me to be fair that the railroad

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and the county should divide the expense of its construction. The railroad company's facilities for doing the work are probably better than those of the county, and the railroad company should do the work and bill the county for one-half its cost.

I recommend the following form of order:

ORDER.

County of Riverside having applied to the Commission for permission to construct a crossing at grade over the tracks of The Atchison, Topeka and Santa Fe Railway Company on Magnolia avenue, Riverside County, California, and a public hearing having been held and it appearing to the Commission that this application should be granted under certain conditions,

It is hereby ordered that the County of Riverside be and the same is hereby granted permission to construct a crossing at grade over the tracks of The Atchison, Topeka and Santa Fe Railway Company on Magnolia avenue, at the point and in the manner shown by the map attached to the application, said crossing to be constructed subject to the following conditions and not otherwise:

(1) The crossing shall be constructed of a width of not less than twenty (20) feet, with grades of approach not exceeding four (4) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(2) This crossing shall be constructed by The Atchison, Topeka and Santa Fe Railway Company and the expense thereof shall be borne equally by that company and by applicant.

(3) The expense of maintaining this crossing thereafter in first-class condition shall be borne by the applicant to a point within two (2) feet of the rails of The Atchison, Topeka and Santa Fe Railway Company.

(4) The expense of maintaining the crossing between the rails and to a distance of two (2) feet outside of the rails shall be borne by the railroad company.

(5) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment. the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 30th day of June, 1916.

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Decision No. 3474.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR PERMISSION TO CONSTRUCT A CONNECTING TRACK AT GRADE ACROSS THE SOUTHERLY HALF OF "J" STREET AND ACROSS A CONNECTING TRACK OF SOUTHERN PACIFIC RAILROAD COMPANY IN THE CITY OF COLTON, SAN BERNARDINO COUNTY, CALIFORNIA.

Application No. 2332.

Decided June 30, 1916.

Applicant permitted to construct a connecting track at grade across a portion of "J" street and the track of the Southern Pacific Company in San Bernardino, provided cars of applicant shall come to a full stop before such crossing, and trains of Southern Pacific Company shall be limited to eight miles per hour thereover.

Frank Karr, for Applicant.

Geo. D. Squires, for Southern Pacific Railroad Company.

Report of the Commission.

Gordon, *Commissioner.*

In this application, filed with the Commission on June 7, 1916, and a hearing on which was held June 12th, the applicant seeks permission to construct a connecting track across a portion of "J" street and across a connecting track of the Southern Pacific Railroad Company at a point near the intersection of "J" street with Ninth street, in the city of Colton, San Bernardino County.

Applicant has secured permission from the city of Colton to cross "J" street in an ordinance dated March 21, 1916, and has secured permission to cross the track of Southern Pacific Railroad Company in an agreement dated April 29, 1913, which was modified by supplemental agreements of February 1, 1914, and May 11, 1915. Copies of the ordinance and agreements accompanied the application.

There appears to be no reason why this application should not be granted. The conditions upon which the street crossing is to be made should be those usually imposed, and as the tracks of both the Pacific Electric and Southern Pacific companies, which are involved in this application, are used for freight purposes only and are located within yard limits and cross public streets close to their intersection, where the view is comparatively open, I believe that ample protection will be afforded if Pacific Electric cars are required to stop before passing over the crossing and Southern Pacific trains are limited to a speed of eight miles per hour.

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I recommend the following form of order:

ORDER.

Pacific Electric Railway Company having applied to the Commission for permission to construct a connecting track at grade across the southerly half of "J" street and across a connecting track of Southern Pacific Railroad Company, in the city of Colton, San Bernardino County, California,

It is hereby ordered that permission be and the same hereby is granted Pacific Electric Railway Company to construct its connecting track at grade across the southerly half of "J" street and across a connecting track of Southern Pacific Railroad Company at the point and in the manner shown on the map attached to the application; said crossings to be constructed subject to the following conditions, viz:

(1) The entire expense of constructing these crossings shall be borne by applicant.

(2) The crossing of "J" street shall be of a width and type of construction to conform to the portions of "J" street adjacent to the crossing, with grades of approach not exceeding 4 per cent.

(3) The crossings shall be protected by a suitable crossing sign and shall in every way be made safe for the passage thereover of vehicles and other road traffic.

(4) The expense of maintaining said crossings in good and first-class condition shall be borne by applicant.

(5) After the installation of the crossing frogs with the connecting track of Southern Pacific Railroad Company all engines, trains, motors and cars of applicant shall, before proceeding over same, come to a full stop and shall not cross the track until it has been ascertained that it is safe to do so.

(6) All engines, trains, motors and cars of Southern Pacific Railroad Company shall approach this crossing at a speed not greater than eight (8) miles per hour, and shall not proceed over same until it has been ascertained that it is safe to do so.

(7) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 30th day of June, 1916.

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Decision No. 3475.

IN THE MATTER OF THE APPLICATION OF THE CITY AND COUNTY OF SAN FRANCISCO FOR PERMISSION TO INSTALL GRADE CROSSINGS FOR THE CONSTRUCTION OF RAILWAY OF THE MUNICIPAL WATER SUPPLY.

Application No. 2232.

Decided June 30, 1916.

Applicant applies for permission to construct a railroad across eleven state and county highways. The railroad, while being built primarily for construction purposes, will undoubtedly be used to carry passengers and freight for compensation, and is, accordingly, subject to the jurisdiction of this Commission. Application granted, provided that crossing known as No. 5, shall be constructed at separated grades and all trains shall come to a full stop before proceeding over crossing known as No. 3.

Percy V. Long and *Robert M. Searls*, by *Robert M. Searls*, for Applicant.
W. F. McClure, state engineer, for State Engineering Department.

Report of the Commission.

Gordon, *Commissioner.*

In this application the City and County of San Francisco seeks permission to build eleven (11) crossings of state and county highways in connection with the construction of a railroad to the Hetch Hetchy Valley to aid in building the future water supply system for the city.

These crossings are located as follows and are shown in detail by the map attached to the application:

Crossing No. 1 in section 31, T. 1 S., R. 14 E., M.D.B. and M.
Crossing No. 2 in section 3, T. 2 S., R. 14 E.
Crossings Nos. 3 and 4 in section 20, T. 1 S., R. 15 E.
Crossing No. 5 in section 30, T. 1 S., R. 16 E.
Crossing No. 6 in section 33, T. 1 S., R. 17 E.
Crossing No. 7 in section 27, T. 1 S., R. 17 E.
Crossing No. 8 in section 36, T. 1 S., R. 17 E.
Crossing No. 9 in section 30, T. 1 S., R. 18 E.
Crossing No. 10 in section 29, T. 1 S., R. 18 E.
Crossing No. 11 in section 28, T. 1 S., R. 18 E.

The first two crossings in this list are with county roads; the others are state roads. Except for Crossing No. 5, above, permission is asked to construct all of these crossings at grade.

Shortly after this application was filed, a protest was received from the state engineer against granting permission to cross the state roads at grade, and after an inspection was made by our engineering department, the application was set for a formal hearing, which was held on June 9, 1916.

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The railroad, as I have said, is being constructed to expedite the Hetch Hetchy water project of the City and County of San Francisco, and some doubt was expressed as to whether or not it would be a common carrier. This matter was briefly considered at the hearing. It appears probable that when the road is constructed freight and passengers will be carried for compensation, but it is possible that when the water project is completed it will have served its purpose and the city may desire to abandon operations upon it. Inasmuch as the road will probably be operated as a common carrier for some years at least, there seems to be no reason why the Commission should not have jurisdiction over the crossings to be constructed, especially since the city and county desires it to assume such jurisdiction.

Although Mr. W. F. McClure, the state engineer, appeared in the hearing in opposition to the construction of grade crossings on state roads, he took the attitude that the matter should be thoroughly considered before grade crossings were decided upon and did not insist that grade separations should be made in all cases.

There seems to be no reason why this application should not be granted under certain conditions. The railroad traverses a rough country and has maximum grades of four (4) per cent and maximum curves of thirty (30) degrees. In a country where such grades and curves are necessary, grade separations are difficult unless plans are originally made to bring them about. It seems that when surveys were first made for the construction of the railroad, the county of Tuolumne had jurisdiction over those roads which have since been turned over to the state and that the board of supervisors of that county were agreeable to having them crossed at grade. While it is ordinarily well worth while to spend considerable money to secure grade separations, in this case, where the railroad will possibly be in existence for a few years only, the matter is not so clear. In any event, the road has been located, considerable work has been done upon it and it would work a hardship on the city to require the grades of the roads and the railroad to be separated now. The traffic on the railroad will consist of one train each way per day and the maximum speed of trains will not exceed twenty miles per hour, and may not exceed fifteen. The traffic on the highways is not excessive even during the summer and it is much less in winter than during the summer seasons.

In the opinion of our engineers and those of the city there are but two of these proposed grade crossings where conditions will be especially dangerous and where protection other than the usual crossing sign will be needed. These two crossings are Crossings Nos. 3 and 4 in the list previously given. At Crossing No. 3 the state road bridges the river and immediately crosses the track in such a manner that no view can be had of approaching trains, while the trainmen, on the other hand,

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can secure no view of the crossing until the locomotive is upon it. At Crossing No. 4, the road and the railroad parallel each other, running northwesterly toward the crossing for some distance, when the railroad makes a sharp turn across the track. To make these crossings safe, our engineers have recommended that all trains should be required to come to a stop before passing over Crossing No. 3 and that a fence should be built between the highway and the railroad, at Crossing No. 4, for some distance southeasterly from this crossing and that trains should either stop at the crossing or an automatic flagman should be installed.

The engineers of the city agreed with the Commission's engineers that these provisions would be reasonable and they will be made a condition in the order.

I recommend the following form of order:

ORDER.

City and County of San Francisco having applied to the Commission for permission to construct eleven (11) crossings over state and county roads as indicated, and a public hearing having been held and it appearing to the Commission that this application should be granted subject to certain conditions to be hereinafter specified,

It is hereby ordered that permission be and the same is hereby granted to the City and County of San Francisco to construct its railway of the municipal water supply over the county and state roads at the following locations:

Crossing No. 1 in section 31, T. 1 S., R. 14 E., M.D.B. and M.
Crossing No. 2 in section 3, T. 2 S., R. 14 E.
Crossings Nos. 3 and 4 in section 20, T. 1 S., R. 15 E.
Crossing No. 5 in section 30, T. 1 S., R. 16 E.
Crossing No. 6 in section 33, T. 1 S., R. 17 E.
Crossing No. 7 in section 27, T. 1 S., R. 17 E.
Crossing No. 8 in section 36, T. 1 S., R. 17 E.
Crossing No. 9 in section 30, T. 1 S., R. 18 E.
Crossing No. 10 in section 29, T. 1 S., R. 18 E.
Crossing No. 11 in section 28, T. 1 S., R. 18 E.

All of the above being on map attached to the application; crossings to be constructed subject to the following conditions:

(1) Crossing No. 5 shall be made at separated grades, with clearances conforming, in all particulars, to the Commission's General Order No. 26.

(2) The entire expense of constructing these crossings, together with the expense of maintaining them thereafter, shall be borne by applicant.

(3) All grade crossings shall conform in width and type of construction to those portions of the roads to be crossed, with grades of approach not exceeding ten (10) per cent; shall in every way be made safe for vehicles and other road traffic and shall be protected by suitable crossing signs conspicuously located.

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(4) All engines, trains, motors and cars of applicant shall, before passing over Crossing No. 3, come to a full stop and shall not proceed until it has been ascertained that no vehicle will be endangered by so doing.

(5) A suitable fence shall be erected between the road and highway, southeast of Crossing No. 4 and applicant shall either install at its own expense a suitable automatic flagman or require all its engines, trains, motors and cars to come to a stop before passing over this crossing.

(6) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossings as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 30th day of June, 1916.

DECISION No. 3476.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR PERMISSION TO CONSTRUCT ITS TRACKS AT GRADE ACROSS THE TRACKS OF SOUTHERN PACIFIC COMPANY, ON NINTH STREET, IN THE CITY OF COLTON, SAN BERNARDINO COUNTY, CALIFORNIA.

Application No. 330.

Decided June 30, 1916.

Original order provided for the construction of an interlocking plant at the above crossing. The plant has not as yet been installed, and it appearing that it is not necessary at the present time, order amended accordingly, provided that cars and trains of both companies come to a full stop before proceeding over such crossing.

Frank Karr, for Pacific Electric Railway Company.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

SUPPLEMENTAL OPINION.

This application was filed with the Commission on December 23, 1912. Accompanying it was a letter from Southern Pacific Company stating that company was agreeable to the crossing being made "subject to crossing agreement of the usual nature being entered into between parties interested which shall provide for necessary protection to trains

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and traffic." A copy of this agreement, which was dated April 29, 1913, was later sent to the Commission, and on October 8, 1913, an ex parte order was issued which referred to the agreement entered into by the Southern Pacific Company, the Salt Lake Company, which operates over part of the Southern Pacific Company's tracks, and the applicant, and which granted permission for the crossing to be made. The agreement between the Southern Pacific Company and the applicant provided that an interlocking plant should be immediately erected by the Pacific Electric for the protection of this crossing and the ex parte order of the Commission (Decision No. 1000) contained a provision that applicant should, one year from the date of that order, construct and install such an interlocking plant. This provision in the order was never complied with and on May 29, 1916, the Commission ordered the applicant to show why it had not been done. It is fair to state, however, that the applicant was then, and had been for some time past, negotiating with the Southern Pacific Company in an effort to arrive at an agreement with that company to ask the Commission to modify that part of the order requiring an interlocking plant to be installed, and that the Commission was aware of this fact.

The hearing on the order to show cause was held on June 12th. It appears that the clause in the agreement between the Southern Pacific Company and the applicant requiring the installation of an interlocking plant had been inserted in the agreement in accordance with the usual form of crossing contract without a thorough investigation of the conditions obtaining at this particular crossing, and that neither company now desires an interlocking plant at this point.

About a year ago our engineering department made an inspection of this crossing and I quote the following from the report of that investigation:

> "While it is not impracticable to construct an interlocking plant at this point, any interlocking plant, to adequately protect trains moving through it at a speed of 10 miles per hour or greater, would necessarily have its fouling points a considerable distance from the intersection of the tracks. This would mean, then, that a train or car on the Pacific Electric and an approaching train on the Salt Lake would stop all switching in the Southern Pacific yards for several hundred feet on both sides of the crossing. It would also mean that it would be difficult, and would necessitate a complicated interlocking device, to permit more than one train to be drawn up to the station at one time.
>
> "This station, it should be remarked, is a joint station used by all three interested roads, and many passengers transfer here from the Salt Lake and the Pacific Electric to points on the Southern Pacific and vice versa."

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Our engineers arrived at the conclusion that the operation of this crossing would be safe as long as the provision in the ex parte order, requiring all trains to stop before proceeding over the crossing, was carried out and that in view of the conditions set forth in the quotation above it would cause the railroad companies considerable unnecessary hardship to require the installation of a full interlocking plant.

The Pacific Electric Railway Company crosses the tracks of Southern Pacific Company on Ninth street. East of the street is a water tank and immediately west of the street is the Colton Station of the Southern Pacific. On account of the tank and the station all Southern Pacific trains would pass over Ninth street and the track of the Pacific Electric at very slow speed, even if they were not required to do so, and the representatives of the Southern Pacific Company wish permission to operate in this manner over the crossing and thus obviate the necessity of two stops—one at the crossing and one at the station or the water tank.

After a review of our file in this matter and the testimony of witnesses at the hearing, I am satisfied that the Commission should modify its order to the extent of omitting the provision which requires the installation of an interlocking plant. I believe, however, that safe operation requires that all trains of both the Southern Pacific and Pacific Electric should come to a full stop before passing over the track intersections. Southern Pacific Company is making plans for a device which, the company thinks, can be cheaply installed and will afford ample protection without the necessity of safety stops. Before this can be installed it will be necessary, of course, for the permission of the Commission to be secured.

I believe the ex parte order (Decision 1000) previously made in this matter should be set aside and a new order entered.

I recommend the following form of order:

SUPPLEMENTAL ORDER.

Pacific Electric Railway Company having applied to the Commission for permission to construct its tracks at grade across the tracks of Southern Pacific Company on Ninth street, in the city of Colton, San Bernardino County, California, and this permission having been granted by the Commission on October 8, 1913, and a public hearing having been thereafter held by which it appeared that the previous order made in this matter should be set aside and a new order entered,

It is hereby ordered that the previous order made in this matter (Decision 1000) be and the same is hereby annulled.

It is hereby further ordered that permission be hereby granted Pacific Electric Railway Company to construct its main line track at grade across the tracks of Southern Pacific Company on Ninth street, between "K" street and "J" street, in the city of Colton, San Bernardino

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County, California, as shown by the maps and profiles attached to the application, and subject to the following conditions, viz:

(1) The entire expense of constructing the crossing, together with the cost of maintenance thereafter in good and first-class condition, shall be borne by applicant.

(2) All overhead wires or obstructions constructed above the crossing shall have a clearance above the rails of either company of twenty-two (22) feet. All pole lines and other side obstructions shall have a clearance from the center line of the tracks of either company of eight (8) feet, and shall in all other manners conform to the Commission's General Order No. 26.

(3) Until further orders of the Commission all engines, motors, trains and cars of both applicant and Southern Pacific Company shall come to a full stop before passing over the crossing and within fifty (50) feet thereof, and shall not pass over the crossing until the conductor or other employee has first gone thereon and ascertained that no engine, motor, train or car is approaching the crossing from either direction. Should no engine, motor, train or car be appoaching, then said conductor or other employee may signal and permit his engine, motor, train or car to proceed over the crossing.

(4) The Commission reserves the right to hereafter make such further orders relative to the location, construction, maintenance and operation of said crossings as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

(5) The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 30th day of June, 1916.

DECISION No. 3477.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF FRESNO FOR PERMISSION TO CONSTRUCT AND MAINTAIN A PUBLIC HIGHWAY CROSSING OVER THE RIGHT OF WAY AND TRACKS OF SOUTHERN PACIFIC COMPANY, NEAR THE CITY OF SELMA.

Application No. 2243.

Decided June 30, 1916.

It appearing that of a total of eighteen signers of the original petition to open the crossing here under consideration, only six are in a position to use the same, and that these people are at present using private crossings which adequately serve their present needs, application denied.

Charles Wells, for Applicant.

C. J. McDonald, for Southern Pacific Company.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

The road on which the county of Fresno desires to construct the crossing covered by this application is a north and south road, 40 feet in width, between township lines and sections 36 and 31, township 15 south, range 21 east, and township 15 south, range 22 east. It has been recently opened from the track northward, in which direction it extends one mile to a junction with an east and west county road.

The Southern Pacific Company's track runs through sections 36 and 31 in a northwesterly and southeasterly direction, making an angle of about 45 degrees with the section lines, and on the westerly side of the track and adjacent to it is the state highway, which applicant desires to reach by means of this crossing.

It appears that the opening of this road and the crossing now under consideration was brought before the board of supervisors by petition some time in 1914, although the application for the crossing was filed with the Commission less than two months ago.

The nearest existing crossings are about three-quarters of a mile to the northwest and one-half mile to the southeast; but there are two private crossings between these public crossings, one of them being about 100 feet northwest and the other about one-quarter of a mile southeast.

It was brought out at the hearing that the petition to the supervisors contained some eighteen names, but that several of the signers were nonresidents of the immediate territory to be served by this crossing, others have moved away, and that only about one-third of the signers would in any way be benefited by this crossing. Even these, it appears, now cross the track at the private crossings, and no assurance has been given that these private crossings would be closed if the application were granted and a public crossing opened. It does not seem to me, under these circumstances, that public necessity and convenience require the granting of this application at this time. Possibly developments in the future will make it reasonable for a crossing at this point. I recommend the following form of order:

ORDER.

County of Fresno having applied to the Commission for permission to construct a public highway crossing over the track of Southern Pacific Company, near the city of Selma; a public hearing having been held, and it appearing that public necessity and convenience do not now make it necessary to open the crossing applied for,

It is hereby ordered that this application be and the same hereby is denied.

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The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 30th day of June, 1916.

DECISION No. 3478.

IN THE MATTER OF THE APPLICATION OF COUNTY OF FRESNO FOR PERMISSION TO CONSTRUCT AND MAINTAIN A PUBLIC HIGHWAY CROSSING OVER THE RIGHT OF WAY AND TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, ON IOWA STREET, IN THE TOWN OF NAVELENCIA.

Application No. 2235.

Decided June 30, 1916.

That the crossing herein petitioned for would be of benefit only to the realty company selling lots in this district; that the few residents of the district are adequately served by crossings in the immediate vicinity; application denied.

Wm. Radly, for Applicant.

J. W. Walker, for The Atchison, Topeka and Santa Fe Railway Company.

A. S. Votaw, in propria persona.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In this application, filed with the Commission April 25, 1916, Fresno County seeks permission to open Iowa street across the tracks of The Atchison, Topeka and Santa Fe Railway Company in the unincorporated town of Navelencia. A public hearing was held on June 14, 1916.

Navelencia is a town recently laid out and in which very few lots have been sold. The street upon which the realty company, which has subdivided the property, has erected its buildings is Lake boulevard, an east and west street, open across the tracks of the Santa Fe which run about north and south. North of Lake boulevard is an open crossing about three-quarters of a mile, while to the south there is a public crossing of about one-half mile distant. Iowa street, the street sought to be opened, is about 1,650 feet south of Lake boulevard, and is thus within some 900 feet of an existing crossing.

I am unable to see the necessity of this crossing at this time. It will undoubtedly be beneficial to the realty company which laid out the town, but the Commission has often stated that it could not grant permission

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for new crossings to be opened for this reason only. There is no settlement on the west side of the track and, although the east side has been developed, it does not appear that this Iowa crossing would add greatly to the convenience of those who live there, except possibly during the winter, and even then a new crossing would not be needed if Lake boulevard were improved. Undoubtedly the time will come when crossings will be needed in Navelencia closer together than one-half mile, but at this time there is no course open but to deny this application.

I submit the following form of order:

ORDER.

Fresno County, California, having applied to the Commission for permission to construct a grade crossing over the tracks of The Atchison, Topeka and Santa Fe Railway Company on Iowa street in the town of Navelencia, and a public hearing having been held and it appearing that this application should be denied,

It is hereby ordered that this application be and the same is hereby denied.

Dated at San Francisco, California, this 30th day of June, 1916.

DECISION No. 3479.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF RIVERSIDE COUNTY FOR AN ORDER PERMITTING THE CROSSING AT GRADE OF SOUTHERN PACIFIC COMPANY'S TRACKS BETWEEN EL CASCO AND BEAUMONT STATIONS.

Application No. 2139.

Decided June 30, 1916.

The crossing herein applied for being necessary to replace one in the immediate vicinity recently washed out, application granted, provided the county assume the cost of installing an automatic flagman to protect the same.

Lyman Evans, district attorney, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was filed with the Commission on March 15, 1916. Shortly after the application was filed an inspection was made of the crossing by the Commission's engineering department, and it was made clear to the Commission that there was no question but that this application should be granted.

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The railroad tracks in the vicinity of this crossing are parálleled, first on one side and then on the other, by a county road, and were connected by a public crossing, over the tracks, which was washed out during the high water of last winter. The proposed crossing is to replace that crossing, but it is located about one-quarter of a mile farther west and is of course a new crossing.

It was the intention of the Commission to grant this application ex parte, and, acting upon the recommendation of its engineering department, it notified the applicant that this would be done, provided an automatic flagman was installed and the permission of the Southern Pacific Company secured. The plan of the county called for a crossing at a slight angle from a right angle, and as the railroad company desired to have a right angle crossing, and neither the county nor the railroad company seemed willing to incur the expense of automatic flagmen, the matter was set for a formal hearing, which was held on June 12, 1916.

After the situation was fully discussed at the hearing, the Southern Pacific Company agreed to withdraw its objections to a skew crossing if the county would assume the expense of constructing the crossing and of installing the automatic flagman, and would legally abandon the crossing which was washed out during the winter. The county agreed to accept an order with these conditions, and as I approve of this disposition of the matter, I shall make these recommendations in the following form of order:

ORDER.

County of Riverside having applied to the Commission for permission to construct a highway crossing, at grade, over the tracks of the Southern Pacific Company, and a public hearing having been held and it appearing that this application should be granted subject to certain conditions,

It is hereby ordered that permission be and the same is hereby granted the county of Riverside to construct a public highway crossing, at grade, over the tracks of the Southern Pacific Company between El Casco and Beaumont at a point more particularly shown by the map attached to the application, subject to the following conditions:

(1) This crossing should be constructed of a width of not less than twenty (20) feet, with grades of approach not exceeding four (4) per cent, and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(2) The entire expense of constructing this crossing shall be borne by applicant.

(3) The expense of maintaining the crossing hereafter to a point within two (2) feet of the rails of Southern Pacific Company shall be borne by the applicant.

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(4) The expense of maintaining the crossing between the rails and to a distance of two (2) feet outside of the rails shall be borne by Southern Pacific Company.

(5) For the protection of this crossing there shall be installed an automatic flagman of a type approved by the Commission.

(6) The expense of this installation shall be borne by applicant and the expense of maintaining it thereafter shall be borne by Southern Pacific Company.

(7) The crossing previously used over the tracks of Southern Pacific Company, approximately one-quarter of a mile east of this crossing, shall be legally closed and abandoned as a public highway crossing.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 30th day of June, 1916.

DECISION NO. 3480.

IN THE MATTER OF THE APPLICATION OF THE TIDEWATER SOUTHERN RAILWAY COMPANY FOR AN ORDER PERMITTING THE CROSSING AT GRADE BY THE TRACKS OF THE TIDEWATER SOUTHERN RAILWAY COMPANY OVER SHARP'S LANE, A PUBLIC HIGHWAY IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA.

Application No. 2307.

Decided June 30, 1916.

Applicant proposes an extension of its line of railway, at grade, across a county road known as Sharp's lane. The protest against the granting of such application refers merely to acquisition of a right of way across adjoining property, a matter over which the Commission has no jurisdiction; application granted.

Byron Bearce, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In this application the Tidewater Southern Railway Company desires to construct a crossing of its main line track over a county road, known as Sharp's lane. A protest was received against the granting of this application and the matter was placed on the calendar for formal hearing, which was held in Stockton on June 20, 1916.

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It appears that this crossing is desired in connection with a new line applicant is building to connect with the tracks of the Western Pacific Railroad, and that although the protest alleged that the applicant had not secured a right of way through the property adjacent to the crossing, grading has actually been done over this right of way. It is, of course, obvious that the Commission has no jurisdiction over the matter of the acquisition of rights of way over private property, and that the protest, which is a protest against the construction of this line rather than against the crossing, should be made elsewhere and not to the Railroad Commission.

There seems to be no reason why this application should not be granted, and since the country surrounding the crossing is open, I believe no protection will be needed other than the usual crossing sign.

I submit the following form of order:

ORDER.

Tidewater Southern Railway Company having applied to the Commission for permission to construct a crossing at grade over Sharp's lane, and a public hearing having been held and it appearing that this application should be granted subject to certain conditions,

It is hereby ordered that permission be and the same is hereby granted the Tidewater Southern Railway Company to construct its track, at grade, over Sharp's lane at the point and in the manner shown by the map attached to the application, subject to the following conditions:

(1) The entire expense of constructing the crossing, together with the cost of its maintenance thereafter in good and first-class condition, shall be borne by applicant.

(2) The crossing shall conform in width and type of construction to those portions of Sharp's lane to be crossed, with grades of approach not exceeding three (3) per cent; shall be protected by a suitable crossing sign and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

(3) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 30th day of June, 1916.

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Decisions Nos. 3481 and 3482, grade crossings; not printed. See end of volume.

DECISION NO. 3483.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND SAN DIEGO AND ARIZONA RAILWAY COMPANY FOR THE APPROVAL OF AN AGREEMENT FOR THE USE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY'S PASSENGER DEPOT AND CERTAIN TRACKS AT SAN DIEGO, CALIFORNIA.

Application No. 2386.

Decided June 30, 1916.

REPORT OF THE COMMISSION.

The Atchison, Topeka and Santa Fe Raidway Company and San Diego and Arizona Railway Company having applied to this Commission for approval of a certain agreement entered into between said companies; a copy of said agreement is attached to the application herein and marked Exhibit "A," and under the terms of which the San Diego and Arizona Railway Company are permitted to operate jointly with The Atchison, Topeka and Santa Fe Railway Company certain tracks in the city of San Diego from a connection at or near the intersection of Ninth and "N" streets, San Diego, to the passenger station of The Atchison, Topeka and Santa Fe Railway Company, and to a point at or near the intersection of Beech and California streets, San Diego; also to use jointly the passenger station facilities of The Atchison, Topeka and Santa Fe Railway Company. It appearing to the Commission that the approval of this agreement will be beneficial to the public and facilitate the business of the San Diego and Arizona Railway Company, and that this is not a case in which a public hearing is necessary, and that the application should be granted,

It is hereby ordered that the said application be and the same hereby is granted.

Dated at San Francisco, California, this 30th day of June, 1916.

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Decision No. 3484.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF CALIFORNIA AUTHORIZING IT TO ISSUE ITS COMMON CAPITAL STOCK IN THE MANNER AND FOR THE PURPOSES SPECIFIED HEREIN.

Application No. 2056.

Decided July 1, 1916.

In accordance with suggestions contained in the original order in the above entitled action, applicant files a stipulation which provides that it shall set aside from income the sum of $7,000,000.00. For the calendar year ending December, 1916, the sum of $800,000.00; each year thereafter, $1,000,000.00, up to 1922, for which calendar year the sum of $1,200,000.00 will be appropriated; provided that the company shall have the right to apply against such sums payments made into sinking funds. The determinations herein agreed upon not to be considered as prejudicing in any way either the company or the Commission in future determinations of either tangible or intangible property values.

Report of the Commission.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission did, on the 4th day of April, 1916, make an order in this proceeding denying the application, and in the opinion preceding said order urged upon applicant the policy of conserving its assets; and

Whereas since the rendition of said order informal conferences have been had between executive officers of applicant, Pacific Gas and Electric Company, and the Commission, for the purpose of coming to agreement upon the course to be pursued by the company in line with the suggestions made in said opinion; and

Whereas agreement has been reached and Pacific Gas and Electric Company has filed a stipulation with the Commission that, for the purpose of conserving its assets for the protection of bondholders and stockholders, the company will set aside out of income the sum of seven million dollars ($7,000,000.00) within a period of seven years from January 1, 1916, said sum to remain uncapitalized; and

Whereas this plan meets the suggestions set out in the opinion preceding the aforesaid order, and its operation will, in the judgment of the Commission, make for a sounder financial condition; now, therefore,

It is hereby ordered by the Railroad Commission of the state of California that Pacific Gas and Electric Company shall, in accordance with its stipulation filed herein, set up and appropriate from income

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the sum of seven million dollars ($7,000,000.00), at the times and in the amounts as follows:

For the calendar year 1916	$800,000
For the calendar year 1917	1,000,000
For the calendar year 1918	1,000,000
For the calendar year 1919	1,000,000
For the calendar year 1920	1,000,000
For the calendar year 1921	1,000,000
For the calendar year 1922	1,200,000

Provided, that the company shall have the right to apply against the sums above mentioned, payments made into sinking funds for each of the years above named.

It is understood in the determination of this matter that so-called going concern, and water rights, have not been considered, and that no prejudice shall be suffered by either said company or this Commission in a future determination of the actual values of all of the properties of the company, either tangible or intangible.

And provided, further, that nothing herein contained shall be construed as passing, directly or indirectly, upon any dividend policy of Pacific Gas and Electric Company.

It is further understood that either upon application of the company or on the initiative of this Commission this order may be revoked or modified.

Dated at San Francisco, California, this 1st day of July, 1916.

DECISION No. 3485.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY, SOUTHERN PACIFIC RAILROAD COMPANY, CENTRAL PACIFIC RAILWAY COMPANY, SOUTH PACIFIC COAST RAILWAY COMPANY AND PENINSULAR RAILWAY COMPANY FOR AUTHORITY TO MAKE CERTAIN TRANSFERS AND AGREEMENTS IN THE ADJUSTMENT OF THEIR RESPECTIVE PROPERTY INTERESTS IN VARIOUS ELECTRIC RAILROAD LINES IN ALAMEDA COUNTY.

Application No. 2108.

Decided July 1, 1916.

Southern Pacific Company having expended considerable sums in betterments to and extensions of leased electric lines in East Bay cities applies for permission to transfer such improvements to the respective lines:

Southern Pacific Company to transfer to Southern Pacific Railroad Company electric lines in Berkeley and vicinity for the sum of $1,774,790.66; Peninsular Railway Company to transfer to Southern Pacific Railroad Company electric lines on Eighteenth, Twentieth, Twenty-first and Franklin streets in the city of Oakland, together with franchises for the sum of $913,423.78; Southern Pacific Company to transfer to Central Pacific Railroad Company electric line known

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as Melrose Extension for the sum of $567,738.58; the latter named companies also permitted to enter into an agreement whereby certain lines in Alameda shall be considered as lines leased by Central Pacific Railroad Company to Southern Pacific Company; Central Pacific Railroad Company to lease to South Pacific Coast Railroad Company certain property containing car shops and tracks of the latter named company, such transferred properties to be subject to existing leases entered into between the respective railroads and Southern Pacific Company.

Companies acquiring franchises to file stipulations to the effect that no value other than the actual cost shall ever be claimed therefor.

Guy V. Shoup, for Applicants.

REPORT OF THE COMMISSION.

EDGERTON, *Commissioner.*

This is an application of Southern Pacific Company, Southern Pacific Railroad Company, Central Pacific Railway Company, South Pacific Coast Railway Company and Peninsular Railway Company for authority to transfer certain property and to enter certain agreements for the purpose of adjusting their respective property interests in the suburban electric lines in Alameda County.

Southern Pacific Company owns all of the issued capital stock, except directors' shares, of the other parties to this application. It also operates under lease the lines of railroad in Alameda County and elsewhere owned by Central Pacific Railway Company, Southern Pacific Railroad Company and South Pacific Coast Railway Company.

During the past ten years Southern Pacific Company has expended large sums of money for the electrification and extension of the suburban lines in Alameda County owned by Southern Pacific Railroad Company, Central Pacific Railway Company and South Pacific Coast Railway Company. Although no formal agreement was entered into at the time these moneys were expended, there was a general understanding that Southern Pacific Company would eventually transfer the properties so constructed to Southern Pacific Railroad Company, Central Pacific Railway Company and South Pacific Coast Railway Company as their interests might appear, said companies paying therefor an amount equal to the actual cost of said properties to Southern Pacific Company. It is in accordance with this understanding that the present application is brought.

For the purpose of adjusting these various property interests, it is now proposed:

(1) That Southern Pacific Company transfer the electric lines, franchises, rights of way, station grounds and appurtenant property owned by it in the city of Berkeley and vicinity to Southern Pacific Railroad Company for the sum of $1,774,790.66, which is represented as being the cost of said properties to Southern Pacific Company;

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(2) That said properties thus transferred be subjected to the existing lease from Southern Pacific Railroad Company to Southern Pacific Company and operated under the terms of said lease;

(3) That the electric lines, franchises, rights of way, station grounds and appurtenant property on Eighteenth, Twentieth, Twenty-first and Franklin streets in the city of Oakland, be transferred to Southern Pacific Railroad Company by Peninsular Railway Company, in whose name the franchise for said lines was taken, for the sum of $913,423.78, which is represented as being the cost of constructing said lines and of acquiring the necessary rights of way;

(4) That the lines of railroad in Oakland thus transferred to Southern Pacific Railroad Company be also subjected to the lease from the Southern Pacific Railroad Company to the Southern Pacific Company, and operated under the terms of said lease;

(5) That the line of railroad in the city of Oakland known as the "Melrose Extension," together with franchises, rights of way, station grounds, etc., appurtenant thereto, be conveyed by Southern Pacific Company to Central Pacific Railway Company for the sum of $567,738.58, which is represented as being the cost of said properties to Southern Pacific Company;

(6) That the line of railroad referred to as the "Melrose Extension" be subjected to the lease from Central Pacific Railway Company to Southern Pacific Company, and operated under the terms of said lease;

(7) That the ownership of the lines of railroad in Alameda known as the "Pacific Avenue Line," "Lincoln Avenue Line," "Loop Line," and "Eighth or Prospect Street Line" be retained by the Southern Pacific Company, but for convenience in accounting be treated as part of the lines leased by Central Pacific Railway Company to Southern Pacific Company;

(8) That an agreement be entered into between Central Pacific Railway Company and South Pacific Coast Railway Company, leasing to the latter company for 999 years the property upon which a portion of the car shops and certain tracks of South Pacific Coast Railway Company are situated, with an option on the part of South Pacific Coast Railway Company to purchase said property during the continuance of the lease at its appraised value.

Witness for applicants stated that the sums of money proposed to be paid for said properties represent the actual expenditures made by Southern Pacific Company, plus interest at 6 per cent per annum from the date of expenditure to June 30, 1915. Witness stated, however, that only interest during construction had been capitalized.

The following table, compiled from figures submitted by applicants, shows the original cost of said lines, the amount charged to interest

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during construction, and the amount charged for interest after the lines were placed in operation:

	Melrose extension	Berkeley lines	Peninsular railway lines in Oakland
Original cost	$463,378 00	$1,375,620 85	$733,212 30
Interest during construction	18,942 42	82,486 46	30,630 33
Interest from date placed in operation to June 30, 1915	85,418 16	316,683 35	149,581 15
Totals	$567,738 58	$1,774,790 66	$913,423 78

Applicants stated that they were willing to stipulate that the price at which these properties were transferred should not be binding upon this Commission or any other public body as a basis of rate making or other purposes. Such condition will be made a part of the order herein.

The transfer of properties as herein proposed will serve to divest Southern Pacific Company of any ownership in the Alameda County suburban lines, except in the suburban lines in and about the city of Alameda, and the power house, substations, etc., common to all of the lines.

Applicants state that the reason for not transferring the lines in and about the city of Alameda to the logical owner thereof, viz, South Pacific Coast Railway Company, is that the mortgage of said company provides that all additions and betterments shall fall under said mortgage, which provision would prevent the Southern Pacific Company from receiving reimbursement for its advances.

Applicants further state that none of the franchises which it is proposed to transfer contain prohibitory provisions, with the exception of Ordinance No. 58, new series, of the city of Berkeley, which provides that said franchise shall not be leased or assigned, or otherwise alienated, without the consent of the city. In view of this provision, the order herein will require Southern Pacific Company to obtain the consent of the city of Berkeley before said franchise is transferred.

It appears that the various transfers and leases of property proposed by the applicants herein are reasonable, and that the granting of this application will assist applicants in adjusting their respective property rights and obligations. It does not appear that the granting of this application will have any effect upon the tariffs, train schedules or other operating conditions affecting the general public.

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I shall accordingly recommend that the application herein be granted, subject, however, to the terms of the following order:

ORDER.

Southern Pacific Company, Southern Pacific Railroad Company, Central Pacific Railway Company, South Pacific Coast Railway Company, and Peninsular Railway Company having applied to this Commission for authority to make certain transfers of property and to enter into certain agreements in the adjustment of their respective property interests in various electric railroad lines in Alameda County, and a hearing having been held, and it appearing to this Commission that applicants' request is reasonable and should be granted,

It is hereby ordered that Southern Pacific Company be and it is hereby authorized to transfer to Southern Pacific Railroad Company the electric lines of railroad in Berkeley and vicinity for the sum of $1,774,790.66, in accordance with the proposed form of indenture attached to the application herein and marked Exhibit "A." The property to be thus conveyed by Southern Pacific Company is described in Exhibit "1," which is attached to this order and made a part hereof.

It is hereby further ordered that Southern Pacific Railroad Company be and it is hereby authorized to subject said lines to the existing lease of Southern Pacific Railroad Company to Southern Pacific Company, dated June 26, 1902, in accordance with draft of agreement attached to the original application herein and marked Exhibit "B."

It is hereby further ordered that Peninsular Railway Company be and it is hereby authorized to transfer to Southern Pacific Railroad Company the electric lines on Eighteenth, Twentieth, Twenty-first, and Franklin streets in the city of Oakland, for the sum of $913,423.78, in accordance with the formal conveyance attached to the original application herein and marked Exhibit "C." The property to be thus conveyed by Peninsular Railway Company is described in Exhibit "2," which is attached to this order and made a part hereof.

It is hereby further ordered that Southern Pacific Railroad Company and Southern Pacific Company be and they are hereby authorized to subject said electric lines on Eighteenth, Twentieth, Twenty-first, and Franklin streets in the city of Oakland to the lease from Southern Pacific Railroad Company to Southern Pacific Company, dated June 26, 1902, in accordance with an agreement attached to the original application herein and marked Exhibit "D."

It is hereby further ordered that Southern Pacific Company be and it is hereby authorized to transfer to Central Pacific Railway Company the line of railroad known as the "Melrose Extension," for the sum of $567,738.58, in accordance with the formal conveyance attached to the original application herein and marked Exhibit "E." The

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property to be thus conveyed by Southern Pacific Company is described in Exhibit "3," which is attached to this order and made a part hereof.

It is hereby further ordered that Southern Pacific Company and Central Pacific Railway Company be and they are hereby authorized to subject said line to the lease from Central Pacific Railway Company to Southern Pacific Company, dated March 1, 1912, in accordance with the formal agreement attached to the original application herein and marked Exhibit "F."

It is hereby further ordered that Central Pacific Railway Company and Southern Pacific Company be and they are hereby authorized to enter into agreement, substantially in the form of the agreement attached to the original application herein and marked Exhibit "G," by which the lines of railroad in Alameda referred to as the Pacific avenue line, Lincoln avenue line, Loop line, and Eighth or Prospect street line may, for accounting purposes, be treated as part of the lines leased by Central Pacific Railway Company to Southern Pacific Company.

It is hereby further ordered that Central Pacific Railway Company be and it is hereby authorized to lease to South Pacific Coast Railway Company for 999 years certain property upon which a portion of the car shops and tracks of South Pacific Coast Railway Company are situated, in accordance with a formal agreement attached to the original application herein and marked Exhibit "H."

It is hereby further ordered that the respective agreements and transfers herein authorized may be made effective as of June 30, 1915.

The authority herein granted is granted upon the following conditions, and not otherwise:

(1) The price at which the properties herein authorized to be transferred shall not be binding upon this Commission, or any other public body, as a basis for rate making or other purposes.

(2) Within sixty days from the date of this order Southern Pacific Railroad Company and Central Pacific Railway Company shall file with this Commission a stipulation to the effect that they do not and never will claim, in any proceeding before this Commission or any other public body, a value for the franchises acquired from Southern Pacific Company and Peninsular Railway Company in excess of the actual cost of Southern Pacific Company and Peninsular Railway Company of acquiring said franchises, which cost shall be stated in each instance in the stipulation.

(3) Before the authority herein granted Southern Pacific Company to transfer to Southern Pacific Railroad Company the electric lines of railroad in Berkeley and vicinity shall become effective, Southern Pacific Company shall secure the consent of the city of Berkeley to

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the transfer of the franchise granted by Ordinance No. 58, new series, of said city.

(4) The authority herein granted shall apply only to such transfers of property as shall have been made on or before November 30, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 1st day of July, 1916.

EXHIBIT "1."

"1. Beginning at a point in the Villa Homestead Association as shown upon the official map of said Villa Homestead Association on file in the office of the county recorder, of the county of Alameda, state of California, the said point being 800 feet, more or less, westerly from the westerly line of San Pablo avenue, on the boundary line between the city of Berkeley and the town of Emeryville, and running thence in a northerly direction across private property and crossing Folger avenue, Murray street, Mason street, Anthony street and private property to Snyder avenue; thence across Snyder avenue into and along Ninth street; thence northerly along Ninth street across intervening streets to a point in Ninth street northerly from Harrison street; thence northwesterly through private property to the northerly boundary line of the city of Berkeley. Being the route first described in section 1 of Ordinance No. 550-A, Town of Berkeley to Southern Pacific Company, dated December 11, 1908, being 2.34678 miles of double track railroad.

"2. Commencing at a point in Shattuck avenue between Vine and Rose streets; thence southerly along Shattuck avenue and across intervening streets to a connection with the Southern Pacific Railroad at or near University avenue, being the single track route described in the second described route of section 1 of Ordinance No. 550-A, Town of Berkeley to Southern Pacific Company, dated December 11, 1908, being 0.56353 miles of second track.

"3. Commencing at a point on California street, also known as Calais street, where the southerly boundary line of the city of Berkeley crosses said street and running thence northerly along said street and across intervening streets to the southerly line of Dwight Way; thence northerly across Dwight Way and private property and along California street and across intervening streets to a point in California street where same is intersected by the southerly line of Cedar street, running thence northerly along California street 300 feet, more or less; thence curving to the west and entering private property; thence northerly across intervening streets to Monterey avenue; thence northerly along Monterey avenue and across intervening streets to the northerly line of the city of Berkeley. Being a portion of the third described route of section 1 of Ordinance No. 550-A, Town of Berkeley to Southern Pacific Company, dated December 11, 1908, and all of Route No. 1 of section 1 of Ordinance No. 58 n.s., City of Berkeley to Southern Pacific Company, dated March 29, 1910, being 2.80897 miles of double track railroad.

"4. Commencing at a point on the line of railroad of the Southern Pacific Railroad Company on Adeline street southerly from Woolsey street, and running on a curve to the right into Woolsey street and easterly along Woolsey street and across intervening streets to a point about midway between Deakin street and Telegraph avenue; thence northerly across private property and intervening streets to the northerly line of Ashby avenue; thence northerly along Ellsworth street and across intervening streets to the center of Allston Way, being all of the fourth described route in section No. 1 of Ordinance No. 550-A, Town of Berkeley to Southern Pacific Company, dated December 11, 1908, and being 1.15082 miles of double track railroad and 0.56672 miles of single track railroad.

"5. Commencing at a point on the westerly boundary line of the city of Berkeley in block 5 as said block is delineated and so designated upon a certain map entitled (Northbrae, Berkeley, California), which said map was recorded in the office of the

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county recorder of Alameda County, April 8, 1907, in Liber 22 of Maps, page 65, said point being 50 feet, more or less, southerly from the southerly line of Solano avenue, running thence northeasterly with a curve to the right and crossing private property into Solano avenue at or near its intersection with Fresno avenue; running thence easterly along and upon Solano avenue to its intersection with the easterly line of The Alameda; thence entering private property and running along and upon the same in a southeasterly direction and passing under Los Angeles avenue and the circle as said avenue and circle are designated on the map hereinabove referred to, and entering Hopkins street between Eldorado avenue and Del Norte avenue; thence crossing Hopkins street to the intersection of Hopkins street and Sutter street; thence along and upon Sutter street to a point sixty feet, more or less, northerly from the northern line of Yolo avenue; thence running southeasterly and crossing private property and intervening streets to the southerly line of Eunice street, near its intersection with Henry street, thence continuing through private property parallel to and west of Henry street to a point 400 feet more or less northerly from the northerly line of Rose street; thence curving to the left crossing Henry street and Rose street to a connection with the proposed double track of the Southern Pacific Company, franchise for which was granted by Ordinance No. 550-A of the board of trustees of the town of Berkeley held December 11, 1908, duly passed and approved on January 11, 1909. Being all of Route No. 2, section No. 1 of Ordinance No. 58 n.s., City of Berkeley to Southern Pacific Company, dated March 29, 1910, being 1.05958 miles of double track railroad.

"6. Commencing at a point where Solano avenue intersects the westerly boundary line of the city of Berkeley at or near Fresno avenue, running thence easterly along Solano avenue to a connection with the line fifth and last above described, being all of Route No. 3, section 1 of Ordinance No. 58 n.s., City of Berkeley to Southern Pacific Company dated March 29, 1910, being 0.05446 miles of double track railroad.

"7. Commencing at a point where Solano avenue intersects the easterly boundary line of the city of Albany at or near Tulare avenue; running thence easterly along Solano avenue to the westerly boundary line of the city of Berkeley, where said boundary line intersects Solano avenue between Colusa and Fresno avenue.

"8. Commencing at a point in the northwesterly boundary line of the city of Berkeley, said point being in Monterey avenue at or near Sonoma avenue; thence in a northeasterly direction and crossing Sonoma avenue, Monterey avenue, and private property to Colusa avenue at or near Madera avenue; thence northerly along Colusa avenue to a point 425 feet, more or less, southerly from the southerly line of Solano avenue; thence in a northwesterly direction curving to the left and crossing private property to Solano avenue to a connection with the line of railway first hereinabove described.

"9. Commencing at a point on the westerly boundary line of the city of Berkeley, in block 5, as said block is delineated and designated upon a certain map entitled 'Northbrae, Berkeley, California,' said point being 50 feet, more or less, southerly from the southerly line of Solano avenue; thence running southwesterly, curving to the left through private property to Colusa avenue and to a connection with the line or railway second hereinbefore described, said point of connection being 425 feet, more or less, southerly from the southerly line of Solano avenue.

"Being all of the lines described in Ordinance No. 119 (Franchise), County of Alameda to Southern Pacific Company, dated March 28, 1910, being 0.81853 miles of double track railroad.

"10. Commencing at a point in the Berkeley branch of the Southern Pacific Railroad Company at or near Shellmound Station; thence running northerly across private property to a point on the westerly line of Fifth street, near its intersection with the northerly line of Stanford avenue, as said street and avenue are shown upon the map of the Beaudry and Peladeau tract, filed in the office of the county recorder, Alameda County, November 16, 1876; thence continuing northerly on a curve to the left crossing Fifth street and private property in block 35 to a point on the westerly line of Sixth street, 45 feet, more or less, southerly from the southerly line of Powell street, as said streets and block are shown upon the map hereinbefore

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referred to; thence continuing northeasterly crossing Sixth street and Powell street and private property in block 18, to a point in the westerly line of Seventh street 250 feet more or less, southerly from the southerly line of Folsom street, as said streets and block are shown on the map hereinabove referred to; thence continuing northeasterly crossing Seventh street and private property in block 19, to the southerly line of Folsom street 80 feet, more or less, easterly from the easterly line of Seventh street, as said streets and block are shown on the map hereinabove referred to; thence continuing northeasterly crossing Folsom street and curving to the left over private property in block 6 to the westerly line of Eighth street, 180 feet, more or less, northerly from the northerly line of Folsom street, as said streets and block are shown on the map hereinabove referred to; thence continuing on a curve to the left on to the center line of Eighth street; thence running northerly along and upon Eighth street, and crossing all intervening streets to a point on the center line of Eighth street, where same is intersected by the northerly line of Landregan (or Sixty-fourth street), as said streets are shown on the map of the 'Landregan Tract' filed July 27, 1892, in the office of the county recorder, Alameda County, California; thence curving to the right and crossing private property in block 15 to a point in the southerly line of Peabody lane, 16 feet, more or less, easterly from the easterly line of Eighth street, as said block, street and lane are shown on the map next above referred to; thence continuing on a curve to the right, crossing Peabody lane and private property in block 8, to a point on the southerly line of Dalton street, 260 feet, more or less, westerly from the westerly line of Maple street as said streets, lane and block are shown on the map of the 'Maxwell Tract' filed September 19, 1872, in the office of the county recorder, Alameda County, California; thence continuing northeasterly crossing Dalton street and private property, in block 5 of the southerly line of Hallett street, 110 feet, more or less, westerly from the westerly line of Maple street, as said streets and block are shown on the map next above referred to; thence continuing northeasterly, crossing Hallett street and private property in block 2 of the westerly line of Maple street, 90 feet, more or less, southerly from the southerly lien of Union street as said streets and block are shown upon the map next above referred to; thence continuing northeasterly crossing Maple street, Union street and private property in block 1514 to a point on the northern boundary line of the town of Emeryville, said point being 50 feet easterly from the intersection of the easterly line of Maple street if produced northerly with the said northerly boundary line of the town of Emeryville, as shown upon the map of the Villa Homestead Association, filed August 20, 1870, in the office of the county recorder, Alameda County, California.

"Being all the line described in Ordinance No. 99 (Franchise) Town of Emeryville to Southern Pacific Railroad Company, dated October 3, 1910, being 0.87045 miles of double track railroad.

"11. Commencing at a point in the southerly line of the town of Albany, said point being 800 feet, more or less, westerly from the westerly line of San Pablo avenue, running thence in a northerly direction through private property to the intersection of the center line of Jackson street, with the southerly line of Buchanan street; thence northerly along Jackson street and curving to the right through private property to Main street; thence northeasterly along Main street and Solano avenue and across intervening streets to the easterly boundary line of the town of Albany.

"Being all of the line described in Ordinance No. 28 (Franchise), City of Ocean View to Southern Pacific Company, dated April 20, 1909, and being 1.50815 miles of double track railroad.

"12. Commencing at a point on Stanford avenue, in the city of Oakland, between Fifty-ninth street and Sixtieth street, there connecting with the railroad of the Southern Pacific Railroad Company, and thence curving to the left into and running northerly along Occidental street, also known as 'Calias street' and across intervening streets to the boundary line of the city of Oakland and the city of Berkeley, a distance of 810 feet, more or less, being all of the line described in

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Ordinance No. 3170, City of Oakland to Southern Pacific Railroad Company, dated October 3, 1910, and being 0.15572 miles of double track railroad.

"Also all franchises, privileges, rights of way, station yards and station grounds and other property appurtenant to the foregoing described lines of railroad."

EXHIBIT "2."

"First: Double track railway commencing with connection with the double track railway of the South Pacific Coast Railway Company in the block bounded by Thirteenth, Fourteenth, Webster and Franklin streets, and running thence northerly across Fourteenth street at its intersection with Franklin street to the center line of Franklin street, and thence northerly along and upon Franklin street and across intervening streets to a point in Franklin street distant 150 feet, more or less, southerly from the southerly line of Twentieth street, formerly Delger street.

"Second: Single track railway commencing at a point in Franklin street distant 150 feet, more or less, southerly from the southerly line of Twentieth street, formerly Delger street, running thence northerly along Franklin street to a point in Franklin street southerly from Twenty-first street (formerly Twenty-second or Walnut street); thence curving to the left across Broadway westerly and along Twenty-first street (formerly Walnut or Twenty-second street), to a point in said Twenty-first street easterly from Telegraph avenue; thence curving to the left across private property and Telegraph avenue to a point in the center line of Jones street westerly from Telegraph avenue; thence westerly along the line of Jones street, crossing Grove street and San Pablo avenue to the center of Twenty-first street where said Twenty-first street is intersected by San Pablo avenue; thence westerly along the center line of Twenty-first street crossing Brush and West streets and curving to the left on to a point in the center line of Curtis street distant thereon 24 feet, more or less, southerly from the southerly line of Twentieth street; thence curving to the right, and into and through private property, in a southwesterly direction to a point in the northerly line of Nineteenth street distant thereon 94 feet, more or less, westerly from the westerly line of Curtis street; thence crossing Nineteenth street and into and through private property, to a point in the easterly line of Market street, distant thereon 81 feet, more or less, southerly from the southerly line of Nineteenth street; thence crossing Market street and curving to the right to a point in Eighteenth street westerly from Market street.

"Third. Single track railway commencing at a point in Franklin street one hundred fifty (150) feet, more or less, southerly from the southerly line of Twentieth street (formerly Delger street); thence curving to the left in a northwesterly direction to a point in Twentieth street westerly from Franklin street; thence westerly along and upon Twentieth street crossing Broadway, Telegraph avenue, San Pablo avenue, Grove street, Castro, Brush and West streets to a point in Twentieth street easterly from Curtis street; thence curving to the left to the center line of Curtis street; thence in a southwesterly direction parallel and 15 feet southeasterly from the last portion of the second herein described line through private property and crossing Nineteenth street and curving to the right across Market street to a point in Eighteenth street westerly from Market street.

"Fourth: Double track railway commencing at a point in Eighteenth street westerly from Market street at a connection with the single track railways, second and third hereinabove referred to; thence westerly along the center line of Eighteenth street and across all intervening streets to the westerly line of Wood street; thence curving to the left to a connection with the railroad of the Southern Pacific Railroad Company at Sixteenth Street Depot, Oakland.

"Hereinabove described lines being a portion of the lines described by Ordinance No. 3089, City of Oakland, to Peninsular Railway Company, dated May 19, 1910, and passed by the council of the city of Oakland, June 20, 1910, and approved by the mayor of said city on June 28, 1910, and all of the line described by Ordinance No. 3205, City of Oakland, to Peninsular Railway Company, dated October 24, 1910, and passed by the city council of the city of Oakland,

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November 28, 1910, and approved by the mayor December 3, 1910, and being 1.35582 miles of double track railroad and 1.80653 miles of single track railroad.

"Also all franchises, privileges, rights of way, station yards and station grounds and other property appurtenant to the foregoing described lines of railroad."

EXHIBIT "3."

"First: Commencing at a point at the terminus of the existing Melrose branch of the Central Pacific Railway, running thence northeasterly and crossing east Fourteenth street or San Leandro road and curving to the right into private property and crossing Forty-seventh avenue and Forty-eighth avenue to a point in the center line of Bond street; thence easterly along and upon Bond street and across intervening streets to Fifty-fifth avenue (formerly Central avenue); thence crossing Fifty-fifth avenue (formerly Central avenue) and entering private property and running in a southeasterly direction and crossing Hilton street (formerly Portland street) and Fifty-seventh avenue (formerly Nutley avenue) to the center line of Bond street where said Bond street is intersected by said Fifty-seventh avenue (formerly Nutley avenue); thence continuing along and upon Bond street and across intervening streets to Seminary avenue; thence crossing Seminary avenue and entering private property; thence continuing through private property and across all intervening streets to the northwestern boundary line of Havenscourt as said line is shown on Map of 'Havenscourt, Oakland, California'; thence continuing southeasterly through Havenscourt to a point in Havenscourt midway between Havenscourt boulevard and Sixty-seventh avenue; thence continuing on a curve to the right to a point at or near the center line of Church street; thence leaving said Havenscourt tract and crossing Church street and continuing southeasterly through private property to Seventy-third avenue (formerly Yoakum avenue); thence crossing said Seventy-third avenue to the center line of Beck street (formerly Railroad avenue); thence continuing along and upon Beck street and across intervening streets to the southeasterly line of Anita avenue where same intersects said Beck street (formerly Railroad avenue); thence continuing southeasterly through private property and across intervening streets to Eightieth avenue (formerly Thermal avenue); thence crossing said Eightieth avenue and continuing through private property on a curve to the right and crossing Eighty-first avenue (formerly Farnum avenue) to Eighty-second avenue (formerly Moss avenue) where said avenue is intersected by Blanche street; thence continuing southeasterly crossing said Eighty-second avenue to the center line of Blanche street; thence along and upon the center line of Blanche street and across intervening streets to a point in Blanche street one hundred (100) feet, more or less, southeasterly from the southerly line of Eighty-seventh avenue (formerly Sixth avenue); thence continuing southeasterly and entering private property and crossing Ninetieth avenue (formerly Grand avenue) and Ninety-second avenue (formerly Orchard avenue) to the center line of Almond street; thence continuing along and upon the said center line of Almond street to the southeasterly line of Ninety-sixth avenue (formerly Bayview avenue), thence continuing southeasterly and entering private property and crossing Ninety-eighth avenue (formerly Jones avenue) to the center line of Harriman avenue; thence continuing southeasterly along and upon Harriman avenue or Bancroft avenue and across intervening streets to the county road (commonly known as Stanley road) and the southeasterly boundary of the city of Oakland, being all of the line described by Ordinance No. 3146, City of Oakland, to Central Pacific Railway Company, dated August 15, 1910, passed by the city council of the city of Oakland, September 19, 1910, and approved by the mayor October 6, 1910, being 4.26897 miles of double track railroad.

"Second: Commencing at a point on the existing tracks of the Central Pacific Railway Company, 200 feet, more or less, southerly from the southerly line of Lloyd street; thence along the right of way of said Central Pacific Railway to a point on the westerly line of Fruitvale avenue, 30 feet, more or less, southerly from the southerly line of said Lloyd street; thence crossing said Fruitvale avenue to a point on the easterly line thereof 190 feet, more or less, northerly from the northerly

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line of said Lloyd street; thence across private property to Bassett street; thence crossing said Bassett street at a point 400 feet, more or less, northerly from the northerly line of said Lloyd street; thence entering private property crossing Brandon street at a point 430 feet, more or less, northerly from the northerly line of said Lloyd street; thence entering private property and the right of way of said Central Pacific Railway to a connection with the existing track of said railway, being all of the line described by Ordinance No. 3267, City of Oakland, to Central Pacific Railway Company, dated April 7, 1911, passed by the council May 8, 1911, and approved by the mayor May 23, 1911, being 0.30040 mile of double track railroad.

"Also that certain line of railroad situate in the county of Alameda, state of California, and more particularly described as follows:

"Commencing at a point in the center line of Bancroft avenue where said center line intersects the boundary line between the city of Oakland and city of San Leandro and connecting with the southeastern terminus of what is known as the Melrose-San Leandro line, or extension of the Melrose branch of the Central Pacific Railway Company in the city of Oakland; running thence southeasterly along said Bancroft avenue and across intervening streets to a point at or near Dutton avenue, being 0.42764 miles of double track railroad.

"Also all easements and agreements in connection with the right of way of the above described line.

"Also all franchises, privileges, rights of way, station yards and station grounds and other property appurtenant to the foregoing described lines of railroad."

DECISION No. 3486.

CITY OF LOS BANOS
vs.
WEST SAN JOAQUIN VALLEY WATER COMPANY.

Case No. 822.

IN THE MATTER OF THE APPLICATION OF WEST SAN JOAQUIN VALLEY WATER COMPANY FOR AN ORDER AUTHORIZING AN INCREASE IN WATER RATES.

Application No. 1854.

Decided July 1, 1916.

The extensions heretofore directed will provide a return of approximately 15 per cent; an order directing their installation is accordingly reasonable. Defendant also directed to proceed with the gradual installation of at least fifty meters.

Present schedule of rates found unreasonably low, new schedule established, including a flat rate of $1.80 per month for household service, $1.25 per month for each fire hydrant, minimum $45.00 monthly; meter rate, $1.50 per month, entitling consumer to 500 cubic feet; municipal use, 15 cents per 100 cubic feet; such rates not to become effective until defendant shall have complied with the several conditions of the order herein.

Stephen P. Galvin, for City of Los Banos.

Edward F. Treadwell, for West San Joaquin Valley Water Company.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

OPINION ON REHEARING.

The opinion and order in these proceedings were issued by this Commission on December 22, 1915, both actions having been consolidated for hearing. The Commission found that West San Joaquin Valley Water Company was not receiving a sufficient return in its water utility business at Los Banos, and so established a new schedule of rates which also provided for certain expenditures to be made. The anticipated returns as outlined under the new schedule were deemed sufficient to return to the company 7 per cent interest upon the cost to reproduce the plant as it stood, together with interest upon improvements. The improvements which were ordered were as follows:

First—Extension of water mains into Wilson resubdivision.

Second—Metering of 100 flat-rate service connections.

Third—Construction of a filter.

On January 5, 1916, West San Joaquin Valley Water Company filed with this Commission a petition for rehearing, making the following allegations: (*a*) that extensions of mains into the Wilson resubdivision would be an unwarranted expenditure; (*b*) that the company desired to meter those services which they thought wasteful of water, rather than to meter every one; (*c*) that the water served by said company had not been objectionable in the past and that there was no actual need of filtration. If such need did exist, then said company desired to furnish water from other sources; (*d*) that the valuation presented by the Commission's engineer was low, in that the real estate had not been appraised at its full value, nor had any inclusion in capital account been made of franchise value or for improvements necessitated by the repaving of streets in the city of Los Banos; (*e*) that the anticipated returns under the new schedule of rates outlined by the Commission would not be compensatory.

A rehearing was held in Los Banos on June 8, 1916, at which time some additional evidence upon these contended points was presented. It was testified that the State Board of Health had held a hearing in Sacramento on June 3, 1916, at which time the question of the sanitary and health condition of the Los Banos water supply was thoroughly discussed in the presence of attorneys for the city and for the defendant company, with the result that West San Joaquin Valley Water Company was granted a temporary permit providing for the immediate establishment of a chlorination apparatus and the installation of a filtering device within the next six months, at which time the temporary permit would expire. The question of the filtration of the water is, therefore, in the hands of the Board of Health until

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December of this year, and it is not necessary, in this opinion, to consider the matter further. However, the cost of the installation of the chlorination apparatus should be recognized in the rate schedule, which will be outlined herein. Mr. C. G. Gillespie, director of the State Board of Health, has furnished, as per stipulation at the hearing, a statement showing his estimate of such cost to be $420.00.

Testimony was introduced regarding the development of the Wilson resubdivision, and it was found that there were eleven houses at present in the tract served with water through many circuitous courses; three houses not served; one house under construction, and three parties delaying construction of houses until water mains were laid. The parties at present served with water have generally extended service pipes at their own expense and the company has not been to any expense to furnish adequate service to these residents, although one resident did manipulate his water bill so that it was credited on his books against expenditure made for pipe extensions to his house. Practically all the residents of the resubdivision attended this second hearing, and testified that they would take water from the company as soon as the mains were extended. The revenues from the consumers already located in the Wilson resubdivision will assure the company about 15 per cent interest upon their estimated expenditure of $1,700.00 and the order of the Commission, previously rendered, is more than justified by the showing now made.

The company presented as exhibits data showing the expense which had been incurred in relaying mains in advance of the new pavements, and we find it proper to include in capital account a portion of the excess cost of these replacements over the amount allowed for smaller pipe previously installed. The paving of the streets throughout the town has necessarily added to the value of the lots, and if we did not feel that the five lots at the pumping plant were in excess of actual needs of the utility, we should consider it advisable to add to the appraisal already made of those lots the cost of the street work.

This Commission has no desire to dictate minute details concerning the installation of meters, and will leave it to the company at its option to meter those consumers wasteful of water or to install meters at the consumer's option when a consumer believes that the flat rate which he is paying is in excess of the amount which would be charged under meter rates.

In determining what shall be used as the rate base in these cases, we shall add to the amount which the Commission's engineer reported as the reasonable cost new of the properties as of October 28, 1915, new capital required to be expended by extension into Wilson resubdivision, capital required for the installation of at least fifty meters, and $420.00, which is the cost estimated by Mr. Gillespie. On the

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other hand, I have in mind the fact that there is $3,000.00 included for auxiliary steam equipment, which is of little service value, alth necessary in case of fire.

Exhibit No. 8, presented by the water company, shows expenses of rearranging distribution system due to paving, to be:

1915—July to November	$1,421 83
1916—January to May	1,226 77
Total	$2,648 60

A letter filed by the company on June 27, 1916, shows $256.15 as the estimated expense of replacing 1-inch pipe on I street, presumably renewing service connections. The lowering of mains to fit established street grades has been a part of the other expense. The company has laid mains under all intersecting streets covered by the new pavement, all of which is of no immediate use. I will consider $1,000.00 of this street expense as proper to be met at this time by being added to capital. We then have:

Estimated cost, new, of plant	$35,219
Extension into Wilson resubdivision	1,700
Fifty new meters	550
Chlorination plant	420
Portion of street expense occasioned by paving	1,000
	$38,889
7 per cent interest on above	$2,722

The maintenance and operation expense of $4,701.86 will require some adjustment. There will be an addition of $100.00 per year for operation of the chlorination plant. The power bill will be reduced, due to a recent decision in the rate case affecting the San Joaquin Light and Power Corporation. This reduction will be about 12 per cent, effecting a saving of nearly $150.00. The resultant maintenance and operation expense should not exceed $4,700.00 for the coming year. The depreciation allowance previously reported of $651.03, will be increased by $94.00 to allow for the chlorination device and $57.00 for the new meters and pipes, aggregating a total of $802.03.

The return which I find necessary to provide upon completion of the improvements outlined is:

Interest	$2,722
Depreciation	802
Maintenance and operation expense	4,700
	$8,224
1915 revenues	6,711
Necessary total increase in rates	$1,513
Equivalent per cent	22½

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The existing flat rate of $1.50 per house per month and the meter minimum of $1.25 will, therefore, have to be raised, and I find that the following schedule will reasonably provide the necessary revenue which the consumers in Los Banos should bear until further improvements require revision:

Flat Rates.

$1.80 per month for tenements occupied by a single family or private boarding house, and to include toilet and bath fixtures.

$1.25 per month for each fire hydrant, with monthly minimum of $45.00.

All other flat rates as per Ordinance No. 71, of the city of Los Banos, at present in effect.

Meter Rates.

$1.50 per month for 500 cubic feet or less.

$0.20 per 100 cubic feet for the next 1,000 cubic feet.

$0.15 per 100 cubic feet for all excess over 1,500 cubic feet per month.

Municipal Use.

$0.15 per 100 cubic feet.

ORDER.

West San Joaquin Valley Water Company having applied for a rehearing in the above case and application, and a rehearing having been held, at which additional testimony was offered by both parties, and it appearing that the order of this Commission as of December 22, 1915, was fully justified on the evidence then presented, but that certain readjustments in the rate schedule are necessary, the Commission, being now fully apprised in the premises, does hereby find as facts:

First—That the rates now charged by West San Joaquin Valley Water Company are unjust and unreasonable in so far as they differ from the rates hereafter established.

Second—That the following rates are just and reasonable rates to be charged by West San Joaquin Valley Water Company for water sold to its patrons:

Flat Rates.

$1.80 per month for tenements occupied by a single family or private boarding house, and to include toilet and bath fixtures.

$1.25 per month for each fire hydrant, with monthly minimum of $45.00.

All other flat rates as per Ordinance No. 71, of the city of Los Banos, at present in effect.

Meter Rates.

$1.50 per month for 500 cubic feet or less.

$0.20 per 100 cubic feet for the next 1,000 cubic feet.

$0.15 per 100 cubic feet for all excess over 1,500 cubic feet per month.

Municipal Use.

$0.15 per 100 cubic feet.

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Basing this order on the foregoing findings of fact and the findings of fact in the opinion which precedes this order,

It is hereby ordered that West San Joaquin Valley Water Company extend its mains into the Wilson resubdivision, so as to furnish adequate domestic service and fire protection to that district; and

It is hereby further ordered that West San Joaquin Valley Water Company proceed to meter at least fifty of the services heretofore paying under flat rates, meters to be installed at the option of the company or of the consumer; and

It is hereby further ordered that West San Joaquin Valley Water Company be authorized to collect the following schedule of rates for water served from its Los Banos plant:

Flat Rates.

$1.80 per month for tenements occupied by a single family or private boarding house, and to include toilet and bath fixtures.

$1.25 per month for each fire hydrant, with monthly minimum of $45.00.

All other flat rates as per Ordinance No. 71, of the city of Los Banos, at present in effect.

Meter Rates.

$1.50 per month for 500 cubic feet or less.

$0.20 per 100 cubic feet for the next 1,000 cubic feet.

$0.15 per 100 cubic feet for all excess over 1,500 cubic feet per month.

Municipal Use.

$0.15 per 100 cubic feet.

Upon the following conditions, and not otherwise: That applicant shall have completed the extension into the Wilson resubdivision, and shall have begun the gradual installation of meters upon flat rate services and the installation of a chlorination apparatus; and the Commission shall have made a supplemental order stating that these conditions have been fulfilled and that the rates above mentioned may go into effect; and

It is hereby further ordered that this order supersedes the order heretofore made by this Commission on December 22, 1915, in this case and application.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 1st day of July, 1916.

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DECISION NO. 3487.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF MERCED FOR PERMISSION TO CONSTRUCT A HIGHWAY CROSSING AT GRADE OVER THE TRACKS OF THE CENTRAL PACIFIC RAILROAD COMPANY, THE SOUTHERN PACIFIC RAILROAD COMPANY, LESSEE, IN THE TOWN OF LIVINGSTON, ON "C" STREET OF THE LIVINGSTON REALTY COMPANY'S ADDITION TO SAID TOWN.

Application No. 2253.

Decided July 1, 1916.

That though the proposed crossing is not absolutely necessary to the convenience of residents in this vicinity, their only alternative is a far more dangerous crossing than the one proposed, accordingly its construction will not add to but considerably lessen the present hazard. Application granted, provided the county will assume the cost of installing an automatic flagman in addition to the cost of construction of the proposed crossing.

C. H. McCray, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

In this application Merced County seeks permission to open "C" street, in the unincorporated town of Livingston, over the tracks of the Southern Pacific Company. It bases its request on the need for the crossing to serve those who live on the south side of the track to enable them to get to Merced, the county seat, by the shortest route; to permit those who live east of the crossing to reach the south side of the track in the easiest manner; to avoid the necessity of crossing the track at the nearest crossing to the west, alleged to be dangerous; to accommodate packing plants which are expected to locate on the south side of the track; and, in general, to serve those who live in this vicinity and who now use the county road crossing, which is said to be often blocked by trains standing across it.

The Southern Pacific Company opposed the granting of this application on the ground that the crossing was not needed and that its construction would interfere with a passing track over which it is to be located.

Livingston is a town of about 375 people, built on both sides of the track of the Southern Pacific Company, which traverses it in a general east and west direction. On the north of the track is a state highway and on the south is the property of the Livingston Realty Company, which has been subdivided and in which streets have been laid out which were accepted by the county as public roads. About in the center of the town is a north and south county road which crosses the track, but there are no crossings east of this for about a mile and a half. The proposed crossing is 1,550 feet east of this county

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road. Undoubtedly the opening of "C" street, over the track to a connection with the state highway, would add greatly to the convenience of those who live south of the town in the Stevenson and other colonies, the residents of which would find this street the shortest route to Merced, and it would also be a great convenience to those who live east of the proposed crossing and north of the track. The team track of the Southern Pacific Company is on the south side of the main line track, and those from this territory who wish to use it are now forced to make a detour of from 3,000 to 6,000 feet on each round trip. Although at the present time there is no settlement in the immediate vicinity of the crossing, and it would serve no public convenience as far as residents of the neighborhood are concerned, and the packing plants it would accommodate are not yet built, there seems to be a real necessity for it.

The crossing, as above stated, crosses in the center of the Southern Pacific's passing track. It appears, however, that this track is long enough to accommodate a freight train of average length on either side of the crossing, and that it would be necessary only in unusual cases to "cut" a train across it, so the inconvenience which would be caused the railroad company would be slight. The nearest open crossing to the west, that on the county road previously mentioned, is protected by an automatic bell, but it is obscured by buildings to such an extent that it is undoubtedly a very dangerous crossing, and one which it would be difficult to make safe. We believe, from the testimony, that most of those who would use the "C" street crossing would otherwise use this county road crossing, and that to open this street across the track would not increase the total hazard, as "C" street would be considerably safer than the crossing farther west. In view of this fact and the need of the crossing, this application should be granted. The "C" street crossing is open and probably no protection would be needed here were it not that there will be occasions when freight trains will stand on both sides of it, thus obscuring the view of the main line. For this reason we believe an automatic flagman should be installed, and there seems to be no reason why the Commission's usual custom should not be followed, and require the county to pay for its installation.

ORDER.

Merced County having applied to the Commission for permission to construct "C" street at grade over the tracks of the Southern Pacific Company, and a public hearing having been held and it appearing to the Commission that this application should be granted, subject to certain conditions,

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It is hereby ordered that the county of Merced be and the same is hereby granted permission to construct "C" street at grade over the tracks of the Southern Pacific Company, at the point and in the manner shown by the map attached to the application, said crossing to be constructed subject to the following conditions:

1. The crossing shall be constructed of a width of not less than twenty-five (25) feet, with grades of approach not exceeding three (3) per cent, and shall in every way be made safe and convenient for the passage thereover of vehicles and other road traffic.

2. The entire expense of constructing this crossing, together with its maintenance thereafter up to a point within two (2) feet of the rails of the Southern Pacific Company, shall be borne by applicant.

3. The expense of maintaining the crossing between the rails and to a distance of two (2) feet outside thereof shall be borne by the Southern Pacific Company.

4. For the protection of this crossing there shall be installed an automatic flagman, of a type approved by the Commission, and the expense of this installation shall be borne by applicant.

5. The expense of maintaining the automatic flagman thereafter in first-class operating condition shall be borne by the Southern Pacific Company.

6. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

Dated at San Francisco, California, this 1st day of July, 1916.

DECISION NO. 3488.

D. L. VANDERVOORT ET AL.

vs.

PACIFIC ELECTRIC RAILWAY COMPANY

Case No. 924.

Decided July 1, 1916.

The passenger rates Rio Vista to Los Angeles found to be reasonable with the exception of certain inequalities which defendant's representative agreed to eliminate. Readjusted schedule established to become effective within twenty days.

Defendant maintains freight facilities at a point .32 of a mile, approximately five city blocks, from Rio Vista, which are considered as adequately serving that community; complaint in such particulars dismissed.

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S. A. D. Gray, for Complainants.

Frank Karr, for Pacific Electric Railway Company, Defendant.

REPORT OF THE COMMISSION.

DEVLIN, *Commissioner.*

The complainants in this proceeding are patrons of the Pacific Electric Railway, and reside in the vicinity of Rio Vista, located on the Van Nuys-Lankershim line of the defendant. It is alleged that the passenger fares assessed by defendant for transportation to and from Rio Vista are "unfair, unreasonable and exorbitant."

The fares complained of are as follows:

	One way	Round trip	10-ride individual	30-ride family	46-ride children	Monthly commutation
Between—						
Rio Vista and Los Angeles	$0 30	$0 50	$2 00	$4 50	$5 20	$5 60
Rio Vista and Hollywood	25	45				
Rio Vista and Los Nogales	10					

As a second cause for complaint it is alleged that by reason of the refusal of the defendant to establish and maintain a platform or depot at Rio Vista for the handling of freight, complainants are compelled to transact their freight business at Los Nogales or Lankershim at considerable expense and inconvenience.

Rio Vista is a village located 12.4 miles from Fourth and Hill streets, Los Angeles, 4.78 miles from Hollywood, .32 of a mile from Los Nogales and 1.82 miles from Lankershim. The settlement is now in the city of Los Angeles, having been annexed May 22, 1915.

No exhibits and no substantial evidence were offered by complainants to show that the passenger fares in issue are either excessive or discriminatory. Complainants' witness was not entirely conversant with the rate situation and relied principally upon the broad statement that the rates are excessive, referring to the fact that residents of Rio Vista patronize jitney automobiles, also that they walk the short distance to Los Nogales or to University City in order to secure the lower passenger fares in effect from those points.

A census of the population in the immediate vicinity of Rio Vista, secured by a witness for the complainants, would indicate a total of from 130 to 150 people, out of which number approximately 84 are patrons of the Pacific Electric Railway.

Defendant's testimony and exhibits are intended to prove that the present fares are not unreasonable nor excessive and that they are comparable with like fares for approximately the same distances between other points on its system.

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Rio Vista is not shown as a station in passenger tariffs, and therefore under the application rule takes the rates in effect to and from the next more distant station. The evidence shows that travel is light from the station in question, the average being but twelve or thirteen passengers per day in each direction.

Fares of defendant are based upon the zone system, and while the charge is 25 cents between Highland avenue-Hollywood boulevard and Rio Vista, a distance of 4.06 miles, this same fare will carry a passenger to Gardner Junction, 4.94 miles, Oakhurst, 5.46 miles, Normandie avenue and Hollywood boulevard, 6.24 miles, Brush Canyon, 6.68 miles, or to Normandie avenue and Santa Monica, 6.99 miles. The same may be said of other fares complained of, which according to the practice of defendant are graded up to zones and are not on a mileage basis. This practice, when it does not bring about discrimination as between communities, has not been held to be objectionable, and the testimony in this case has failed to show any discrimination in the territory under discussion.

While on the witness stand the traffic manager for defendant admitted that the rates to Rio Vista were somewhat out of line and offered to make certain reductions. Following the hearing an informal discussion took place between some of the parties to the complaint and representatives of the railway company, and as a result of this conference defendant has notified the Commission that it would extend the Los Nogales passenger fares to a point known as Second street, which is .23 of a mile beyond the present station of Rio Vista, that a passenger shelter shed would be placed at Rio Vista Station, and also that it would make certain reductions in the 10-ride commutation fares.

The record contains testimony to the effect that present rates do not afford defendant a return upon the value of its property, but I do not think it necessary in this case to develop that question.

Whether or not a rate adjustment is unfair or unreasonable against a particular locality is a question of fact which must be decided upon consideration of the evidence in the case. I have made a careful analysis of the fares under attack and compared them with other fares between points on defendant's lines, and have reached the conclusion that certain inequalities should be removed.

Defendant, as heretofore stated, has offered to extend the Los Nogales rates to second street, Rio Vista, also to make reductions in the 10-ride commutation fares. This proposed adjustment extending the Rio Vista zone to Second street, a point .23 of a mile north of the present Rio Vista stop, provides reductions in all the fares complained of, and under

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the evidence introduced no greater reductions would be justified. I therefore recommend that the following rates be established:

	One way	Round trip	10-ride individual	20-ride family	16-ride children	Monthly commutation
Between—						
Los Angeles and Rio Vista	$0 25	$0 45	$1 75	$4 00	$4 45	$5 30
Hollywood-Colegrove and Rio Vista	20	35	1 35	3 50	4 05	4 60

In explanation of the situation as to the receiving and delivery of freight at Rio Vista, Mr. D. W. Pontius, traffic manager of the Pacific Electric Railway, testified that a regular freight station with facilities for handling both carload and less carload shipments had been established at Los Nogales, a distance of .32 of a mile (approximately 5 city blocks) south of Rio Vista, at the junction of the state highway, the main thoroughfare from Los Angeles, this point being considered the most logical, serving conveniently the greatest number of residents in that locality. The testimony also shows that from an operating standpoint it would not be practical to maintain freight facilities at both Los Nogales and Rio Vista on account of their close proximity.

Investigation developed the fact that there are very few communities in this state where freight stations are located any nearer to the residental or business section than .32 of a mile, and it would not therefore appear that there is any hardship caused by reason of the refusal of defendant in this case to accept or deliver freight at Rio Vista, having established facilities for handling such business at Los Nogales. I would therefore recommended that in so far as the second cause for complaint is concerned, this case be dismissed.

I recommend the following form of order:

ORDER.

D. L. Vandervoort et al. having filed with this Commission a complaint attacking the passenger fares of the Pacific Electric Railway Company to and from Rio Vista Station, also requesting that facilities be provided at Rio Vista for the handling of freight, and a regular hearing having been had and the Commission being fully apprised in the premises, and basing its order on the findings set out in the opinion which precedes this order,

It is hereby ordered that the Pacific Electric Railway Company publish and file with this Commission, within twenty days from the date of

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this order, the following passenger fares which are found to be just and reasonable:

	One way	Round-trip	10-ride individual	30-ride family	46-ride children	Monthly commutation
Between—						
Los Angeles and Rio Vista	$0 25	$0 45	$1 75	$4 00	$4 45	$5 30
Hollywood-Colegrove and Rio Vista	20	35	1 35	3 50	4 05	4 60

It is further ordered that that part of the complaint with reference to the establishment of freight facilities at Rio Vista be dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 1st day of July, 1916.

DECISION No. 3489.

IN THE MATTER OF THE APPLICATION OF SAN JOAQUIN LIGHT AND POWER CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF FIRST AND REFUNDING MORTGAGE GOLD BONDS.

Application No. 2354.

Decided July 7, 1916.

Application is made to issue $1,000,000.00 face value of 6 per cent first and refunding mortgage bonds, proceeds of which are to be used to cover 85 per cent of expenditures, which include $68,000.00 to reimburse treasury covering capital expenditures heretofore made, and $1,299,000.00 for future betterments and improvements.

Detailed review made of applicant's financial condition. It is held that insufficient evidence was presented with reference to amounts chargeable to Merced Falls plant, accordingly no amount allowed for this item. Item of $50,000.00 in connection with steam plant at Betteravia and $13,567.00 for transmission line thereto held in abeyance account insufficient evidence to warrant a conclusion that applicant should incur these expenditures instead of Midland Counties Public Service Corporation in connection with which system they are being constructed.

Applicant authorized to issue $666,500.00 face value of bonds to be sold at not less than 96, $48,800.00 thereof to reimburse treasury and $617,700.00 for extensions and betterments proposed for the calendar year 1916.

Transformers: Applicant was heretofore directed to purchase transformers owned by individual consumers, a dispute arising as to the price to be paid, such price is established at cost to the company at the present time less 5 per cent per annum for depreciation.

W. A. Sutherland, for San Joaquin Light and Power Corporation.

Julius A. Landsberger and *Ambrose Gherini,* for certain stockholders.

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REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

This is an application by San Joaquin Light and Power Corporation for an order authorizing the issue of first and refunding mortgage Series "C" 6 per cent bonds, of the face value of $1,000,000.00, for the purposes hereinafter specified.

A public hearing in this proceeding was held in San Francisco on June 21, 1916. It was stipulated at the hearing that such documents as San Joaquin Light and Power Corporation might file herein subsequent to the hearing might be considered in evidence and be given appropriate exhibit numbers. Subsequent to the hearing, San Joaquin Light and Power Corporation filed the following documents, which have been given exhibit numbers as follows:

Applicant's Exhibit No. 4—Current assets and liabilities.

Applicant's Exhibit No. 5—Capital expenditures authorized May 1 to 21, 1916.

Applicant's Exhibit No. 6—Distribution line estimates, December, 1915, to April, 1916, inclusive.

Applicant's Exhibit No. 7—Letter from W. A. Sutherland, dated June 24, 1916, with enclosures relating to current liabilities.

Applicant's Exhibit No. 8—Letter from G. R. Kenny, dated June 28, 1916, enclosing balance sheet, May 31, 1916, and summary of bond statement, May 31, 1916.

Applicant's Exhibit No. 9—Letter from G. R. Kenny, dated June 29, 1916, enclosing detail of expenditures of $68,000.00 heretofore incurred.

The financial condition of San Joaquin Light and Power Corporation was reviewed by the Railroad Commission in Decision No. 3241, rendered on April 6, 1916, in the so-called San Joaquin Light and Power Corporation cases, to which decision reference is hereby made.

San Joaquin Light and Power Corporation has authorized an issue of capital stock of the par value of $25,000,000.00, consisting of common capital stock of the par value of $15,000,000.00, and preferred capital stock of the par value of $10,000,000.00. Of the capital stock thus authorized, there is outstanding common capital stock of the par value of $11,000,000.00 and preferred capital stock of the par value of $6,500,000.00.

The following table shows a summary of bond statement of San Joaquin Light and Power Corporation on May 31, 1916, as shown by applicant's Exhibit No. 8:

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TABLE No. I.

Bond Statement San Joaquin Light and Power Corporation and Subsidiary Corporations, May 31, 1916.

	Bonds alive in sinking fund		Certified unsold	Exchanged	With public	Total outstanding per balance sheet
	Other companies	Own				
San Joaquin Light and Power Corporation:						
Series "A" 6's		$17,000 00	*$13,000 00		$1,470,000 00	$1,500,000 00
Series "B" 5's					1,141,000 00	1,141,000 00
Series "C" 6's					1,668,000 00	1,668,000 00
Series "B" 6's					1,783,000 00	1,783,000 00
San Joaquin Power Company:						
First mortgage 5's			*3,000 00		92,000 00	95,000 00
San Joaquin Light and Power Company:						
First mortgage 5's		31,000 00	*18,000 00		2,588,000 00	2,637,000 00
Power Transit and Light Company:						
First mortgage 5's		49,000 00		$633,000 00	96,000 00	778,000 00
Bakersfield Gas and Electric Light Co.:						
First mortgage 6's					12,000 00	12,000 00
Bakersfield and Kern Electric Railway Co.:						
First mortgage 5's	$27,000 00	33,000 00	*16,000 00	2,000 00	47,000 00	125,000 00
	$27,000 00	$130,000 00	$50,000 00	$635,000 00	$8,897,000 00	$9,739,000 00

*Bonds repurchased and owned by the corporation.

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The following table shows the balance sheet of San Joaquin Light and Power Corporation as of May 31, 1916, as shown by applicant's Exhibit No. 8:

TABLE No. II.

Balance Sheet San Joaquin Light and Power Corporation and Subsidiary Corporations, May 31, 1916.

Assets.			*Liabilities.*		
Capital assets—			Capital liabilities—		
Rights and franchises	$14,086,556 87		Stock, preferred, 6% cumulative ($10,000,000.00 authorized)	$6,500,000 00	
Organization expense	24,382 52		Common ($15,000,000.00 authorized)	11,000,000 00	
Plant	12,361,132 52			$17,500,000 00	
Sinking fund	162,667 05		Bonds	9,739,000 00	
Total capital assets		$26,634,738 96	Total capital liabilities		$27,239,000 00
Treasury securities		766,531 53	Current liabilities—		
Current assets—			Accruals—		
Cash	$168,516 74		Taxes and license	$1,494 85	
Notes receivable	323,492 37		Bond interest	120,599 17	
Accounts receivable	365,293 57		Interest on funded debt	8,449 17	
Material and supplies	313,982 24		Sinking fund	87,189 08	
				$217,732 27	
Total current assets		1,171,284 92	Deposits	39,266 95	
Deferred charges—			Prepayments	18,451 19	
Prepaid taxes and insurance			Notes payable	102,408 44	
Bond discount and expense	$381,229 37		Accounts payable	112,786 60	
Stock discount	1,250,000 00		Unaudited invoices payable	21,058 18	
Prepayments	1,337 44		Pay roll	39,287 04	
Total deferred charges		1,632,566 81	Total current liabilities		553,990 67
Suspense—			Surplus and reserves—		
Unaudited undistributed invoices payable	$24,058 18		Reserves	$1,291,735 66	
Miscellaneous undistributed disbursements	129,919 57		Capital surplus	373,917 50	
Replacements	14,071 24		Surplus close of year	705,919 19	
			Surplus current year to date	208,608 19	
Total suspense		168,048 99	Total surplus and reserves		2,580,180 54
Total assets		$30,373,171 21	Total liabilities		$30,373,171 21

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It will be noted from Table No. II that San Joaquin Light and Power Corporation shows current assets amounting to $1,171,284.92 and current liabilities amounting to $553,990.67.

The following table shows the valuation of the entire property of San Joaquin Light and Power Corporation used and useful in its various public utility services, as of January 1, 1916, as shown in applicant's Exhibit No. 2:

TABLE No. III.

Valuation San Joaquin Light and Power Corporation, January 1, 1916.

Electric Department (R. R. C.) less transformers to be purchased and construction capital		$9,647,240 00
Bakersfield Gas (R. R. C.) valuation of 1914, plus approximate additions and betterments		325,000 00
Selma Gas (J. G. White)	$64,304 00	
Merced Gas (J. G. White)	73,844 00	
Madera Water (J. G. White)	58,567 00	
Selma Water (J. G. White)	66,910 00	
	$263,625 00	
Less 10 per cent	26,362 00	
		237,263 00
Bakersfield and Kern Railway revaluation, using Commission's rate of overhead		638,964 00
Supplies and working capital (basis of two months' operating expense) railway, gas and water departments		50,236 00
		$10,898,703 00

The first item in the foregoing table purports to show the fair value of the property of San Joaquin Light and Power Corporation used and useful in its electric business, as derived from this Commission's said Decision No. 3241. This figure assumes an allowance for transformers to be purchased by San Joaquin Light and Power Corporation amounting to $232,000.00. In said Decision No. 3241, the Railroad Commission made an allowance for this item of $264,485.00. Consequently, the first item should be $9,614,755.00. The Railroad Commission has not as yet passed upon the other valuations shown in the preceding table, with the exception of the valuation of the Bakersfield gas property in 1914.

San Joaquin Light and Power Corporation now seeks authority to issue its first and refunding mortgage Series "C" 6 per cent gold bonds, as follows:

(*a*) To reimburse the corporation's treasury for sums heretofore expended for additions and betterments—$68,000.00.

(*b*) For expenditures hereafter to be made for additions and betterments—$1,299,000.00.

San Joaquin Light and Power Corporation asks authority to issue said bonds to the extent of 85 per cent of the cost of said additions and betterments, as provided by its deed of trust or mortgage.

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The details of the item of $68,000.00, being moneys heretofore expended for additions and betterments, are shown in applicant's Exhibit No. 9. The authority to issue bonds in connection with this item will be granted, with the exception of a total of $10,569.50 in connection with the Merced Falls power house, with reference to the propriety of which item there is not at present sufficient evidence before the Railroad Commission.

The purposes for which San Joaquin Light and Power Corporation desires to make expenditures for additions and betterments in 1916 and 1917 are set forth in applicant's Exhibit No. 2.

The expenditures to be made in 1916 are as follows:

TABLE No. IV.

Expenditures to be Made by San Joaquin Light and Power Corporation in 1916.

Consumers' transformers to be purchased		$232,000 00
Production capital.		
Merced Falls plant (completed)	$35,000 00	
New pipe line, No. 1 power house	4,000 00	
Betteravia Capital Addition	50,000 00	
Power house No. 2	87,000 00	
		176,000 00
Transmission Betteravia line		13,567 00
Substations.		
Raymond. Ora Loma. Coarse Gold	$35,000 00	
Fresno transformers	14,500 00	
Spare transformers	7,000 00	
Corcoran and Stoil District	10,000 00	
		66,500 00
Distribution lines.		
Three times amount authorized to March 31, 1916		342,000 00
		$830,067 00

The expenditures to be made in 1916 and 1917 are as follows:

TABLE No. V.

Expenditures to be Made in 1916 and 1917.

Production.		
Complete No. 2 power house	$177,000	
Canyon power house (Capital Addition)	150,000	
		$327,000 00
Transmission.		
Loop on North End.		
Change 30 kilovolts to 60 kilovolts	$101,000	
Bullard Sayres Corner line	36,360	
Change No. 3—No. 1 line 30 kilovolts to 60 kilovolts	7,533	
Tie line across loop	100,000	
		244,893 00
Distribution and substations.		
For 1917 add same amount as in 1916		384,500 00
		$956,393 00

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Testimony was given at the hearing in behalf of San Joaquin Light and Power Corporation that it is desired to provide now only for the corporation's immediate needs. In view of this statement and also of the fact that a portion of the funds hereafter to be expended by the corporation will be provided by a plan of junior financing on which the corporation is now working, in accordance with suggestions heretofore made by the Railroad Commission, the authority herein given to issue bonds in connection with moneys hereafter to be expended for additions and betterments will be limited to such additions and betterments as petitioner expects to make during the calendar year 1916, without prejudice to consideration hereafter in subsequent proceedings of the expenditures referred to in Table No. V.

The authority desired by San Joaquin Light and Power Corporation in connection with the items shown in Table No. IV may be granted with the following exceptions: Two items, being estimate No. 1557, stubbing poles on Hanford line, $1,176.12, and estimate No. 1630, resetting poles on west 60 kilovolt line, $3,622.00, should properly be charged to operating expenses and should not be capitalized. The item of $35,000.00 for the Merced Falls plant will be held in abeyance for the reason hereinbefore indicated. The item of $50,000.00 in connection with the proposed steam plant at Betteravia and $13,567.00 for the transmission line in connection with said steam plant, both items referring to the business of Midland Counties Public Service Corporation, will be held in abeyance for the reason that the evidence now before the Railroad Commission is not sufficient to justify the Commission in drawing the conclusion that these expenditures should now be made by San Joaquin Light and Power Corporation instead of by Midland Counties Public Service Corporation. There is no question concerning the desirability of the Betteravia construction. The only question is as to which corporation should bear the burden, and on what terms, which question the Railroad Commission will be ready to take up with the parties at any time. The total of the items thus excluded or held in abeyance is $103,365.12. The balance of $726,701.88 remaining of the items shown in Table No. IV will be allowed.

Table No. IV includes an item of $232,000.00 to cover the cost of transformers to be purchased by San Joaquin Light and Power Corporation from its consumers, as directed by the Railroad Commission in said Decision No. 3241. San Joaquin Light and Power Corporation has heretofore undertaken to pay for said transformers by a credit of 10 per cent of the consumers' monthly bills. The consumers, however, prefer to have San Joaquin Light and Power Corporation purchase the transformers outright, and the corporation desires to be in a position

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to do so. Some dispute having arisen between the corporation and its consumers with reference to the price to be paid for the transformers, the Railroad Commission recommends that the corporation pay for them outright, the sum to be paid in each instance being the price which San Joaquin Light and Power Corporation would be compelled to pay for the transformer at the present time, new, less depreciation at the rate of 5 per cent per annum.

The deed of trust or mortgage of San Joaquin Light and Power Corporation to The Trust Company of America, trustee, dated August 1, 1910, and securing the corporation's first and refunding mortgage bonds, provides in part that bonds may be authenticated and delivered by the trustee from time to time, to the extent of 85 per cent of the cost of making additions to and extensions, improvements and betterments of the property of San Joaquin Light and Power Corporation or any of its subsidiary companies. The deed of trust also provides that the net income of the corporation for the period of twelve months before the first day of the then current month must have been at least twice the sum of the interest upon all the bonds which shall then be outstanding, plus the bonds which it is proposed to issue. San Joaquin Light and Power Corporation reports in applicant's Exhibit No. 2 that the bonds outstanding with the public on June 13, 1916, amounted to $8,910,000.00, that the corporation's earnings applicable to bond interest during the year ending March 31, 1916, were $1,128,045.66, and that twice the interest charges on the outstanding bonds were $978,000.00. This leaves a margin of $150,045.66, which is considerably more than sufficient to justify the issue of the bonds herein authorized, under the terms specified in the deed of trust or mortgage.

On May 1, 1916, the new rates prescribed by the Railroad Commission in said Decision No. 3241, applying to the entire electric business of San Joaquin Light and Power Corporation, became effective. The Railroad Commission effected substantial reductions in certain of these rates, particularly the rates for residence and commercial lighting, and for agricultural power service. The Railroad Commission has consistently been of the opinion that the normal growth of the electric business of San Joaquin Light and Power Corporation, plus the large amount of additional business which will undoubtedly come to the corporation as the result of the reduced rates established, would undoubtedly give to the San Joaquin Light and Power Corporation an absolutely fair return on the fair value of its property. Mr. A. C. Balch, vice president of San Joaquin Light and Power Corporation, when asked by counsel for applicant at the hearing to give his views

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with reference to the effect of the rates established by the Railroad Commission, testified as follows:

> "A. Well, the impression I had in the first place was that there would be a reduction, and that the new business would catch up and make the income of the company higher than before.
> "Q. And you still have that idea?
> "A. And I still have that idea, in view of these statements I have it stronger than ever."

The figures presented at the hearing bearing on this question consist in part of a statement of electric earnings for the months of May, 1915, and May, 1916, and in part of evidence of new business already secured or in the process of being secured.

The following table shows the gross electric earnings of San Joaquin Light and Power Corporation for the months of May, 1915, and May, 1916:

TABLE NO. VI.

Electric Earnings San Joaquin Light and Power Corporation, May, 1915, and May, 1916.

	May, 1915	May, 1916
Light earnings	$50,570 61	$45,854 86
General power earnings	63,076 14	77,452 80
Fresno Traction Company	2,454 05	2,776 95
Midland Counties Public Service Corporation	3,535 53	4,136 81
Hanford	2,030 80	1,781 44
Fresno Valley Ice	1,857 60	2,652 00
Bakersfield and Kern Electric Railway	542 34	676 10
Tulare County Power Company	4,956 18	----------
Fresno City Water Company	3,703 00	7,194 10
	$132,726 25	$142,525 06
*April earnings bill in May—Bakersfield	----------	6,158 63
		$136,366 43

*Bakersfield District—Flat rate consumer billing changed from first day of following month to last day of current month. Amount billed May 1, $6,158.63.
Many bills to be rebated when choice of rate is made by consumer.

It will be observed from the foregoing table that the gross earnings from the electric business during the month of May, 1916, after the rates established by the Railroad Commission became effective, were in excess of the gross earnings during the same month in the preceding year. Evidence was presented in behalf of San Joaquin Light and Power Corporation to the effect that certain adjustments, particularly in agricultural power bills, would have to be made by reason of the possibility of securing lower rates under alternative schedules.

Mr. E. B. Walthall, applicant's assistant general manager, testified that reports from the district agents indicated that between 3,000 and

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4,000 horsepower of additional business was already in sight, and that there will be a considerable development throughout the entire territory.

Applicant's Exhibit No. 6 shows that by an estimated expenditure of $127,314.52 to take on additional business which has already been secured, San Joaquin Light and Power Corporation expects to secure an additional gross annual revenue of $42,513.00. As the estimates included in the total expenditures of $127,314.52 include only estimates authorized to April 1, 1916, and as San Joaquin Light and Power Corporation estimates that the cost of additional distribution lines under estimates to be authorized during 1916 subsequent to March 31st, will be three times the amount authorized prior to March 31st, it would seem to be a reasonable assumption that the increase in the gross revenue from the additional new business to be secured subsequent to March 31, 1916, during the remaining portion of the year, will be at least $120,000.00.

Confidence on the part of bond buyers in the financial condition of San Joaquin Light and Power Corporation is shown by the fact that the bonds for which authority is herein asked are to be sold for from 96 to 97 per cent of their face value. The highest price ever realized by San Joaquin Light and Power Corporation for its bonds has been 95 per cent.

Subsequent to the submission of this proceeding, the Railroad Commission is in receipt of a letter dated June 30, 1916, from petitioner, suggesting that by reason of bright prospects for new business, it will be necessary for San Joaquin Light and Power Corporation to expend considerable sums for additions and betterments up to July 1, 1917, in addition to the amounts set forth in Table No. IV herein, showing additional expenditures to be made during the year 1916.

The intention of the order herein is to authorize the issue of bonds against such capital additions as may reasonably be anticipated for the calendar year 1916. If, during the progress of the year, it becomes evident that additional expenditures must be made, the Railroad Commission will give prompt consideration to a supplemental petition herein on behalf of San Joaquin Light and Power Corporation.

I recommend that this application be granted to the extent indicated in the order and submit the following form of order:

ORDER.

San Joaquin Light and Power Corporation having applied to the Railroad Commission for an order authorizing the issue of first and refunding mortgage Series "C" 6 per cent bonds, said bonds to be payable on August 1, 1950, and to bear interest at the rate of 6 per cent per annum, payable semiannually, and a public hearing having been held, and the Railroad Commission finding that the purposes for which the proceeds of the bonds herein authorized to be issued are to be used

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are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that San Joaquin Light and Power Corporation be and the same is hereby authorized to issue its first and refunding mortgage Series "C" 6 per cent gold bonds, secured by deed of trust or mortgage dated August 1, 1910, to The Trust Company of America, trustee, of the face value of $666,500.00, on the following conditions and not otherwise, to wit:

1. San Joaquin Light and Power Corporation shall sell said bonds so as to net not less than 96 per cent of their face value and accrued interest.

2. San Joaquin Light and Power Corporation shall use the proceeds from said bonds for the following purposes and not otherwise:

(*a*) To reimburse the treasury of San Joaquin Light and Power Corporation for expenditures heretofore incurred for additions and betterments, the items being set forth in applicant's Exhibit No. 9 herein, not to exceed $48,800.00.

(*b*) The construction of additions and betterments to be made for the items set forth in Table No. IV in the opinion which precedes this order, with the exception of the items for Merced Falls plant and Betteravia steam plant and transmission line and the two items of operating expenses referred to in the opinion herein, not to exceed $617,700.00.

3. San Joaquin Light and Power Corporation shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the corporation shall make a verified report to the Railroad Commission, stating the sale or sales of said bonds during the previous month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority hereby given to issue bonds shall not become effective until San Joaquin Light and Power Corporation has paid the fee specified in the Public Utilities Act.

5. The authority hereby given to issue bonds shall apply only to such bonds as shall have been issued on or before July 1, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 7th day of July, 1916.

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Decisions Nos. 3490, 3491, and 3492, grade crossings; not printed. See end of volume.

DECISION NO. 3493.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE COMMON STOCK FOR THE RETIREMENT OF PREFERRED STOCK.

Application No. 2387.

Decided July 8, 1916.

Applicant authorized to issue 6,600 shares of common stock of the par value of $100.00 per share, such stock to be issued solely for the purpose of retiring and canceling a like number of shares of applicant's preferred stock.

Wilson & Wilson, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application of Southern Counties Gas Company of California for an order of the Commission ratifying its action in issuing 3,400 shares of common capital stock to retire and cancel 3,400 shares of preferred capital stock, and for authority to issue 6,600 shares of common capital stock to retire and cancel 6,600 shares of outstanding preferred capital stock.

The authorized capital stock issue of Southern Counties Gas Company of California has recently been increased from $1,000,000.00, divided into 10,000 shares of the par value of $100.00 per share, of which 5,000 shares were preferred stock and 5,000 shares common stock, to $5,000,000.00, consisting of 50,000 shares of the par value of $100.00 per share, divided into 25,000 shares of preferred stock and 25,000 shares of common stock.

On May 22, 1916, applicant had outstanding 5,000 shares of common stock of the par value of $500,000.00, and 3,400 shares of preferred stock of the par value of $340,000.00.

Under the authority granted by this Commission's Decision No. 3360, dated May 22, 1916, applicant issued 6,600 shares of preferred stock of the par value of $660,000.00, and 3,400 shares of common stock of the par value of $340,000.00. The 3,400 shares of common stock so issued were issued in exchange for the 3,400 shares of preferred stock, said 3,400 shares of preferred stock being retired and canceled.

As this exchange was made in accordance with the terms of Decision No. 3360 referred to above, further ratification by this Commission is unnecessary.

The applicant's request to issue 6,600 shares of common stock to retire and cancel the 6,600 shares of preferred stock now outstanding, I believe, may properly be granted, the affairs of this company having

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been carefully investigated in connection with Applications No. 2198, 2199 and 2271, decided in Decision No. 3360, referred to above.

I accordingly submit the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to this Commission for an order ratifying an issue of 3,400 shares of common stock to retire and cancel 3,400 shares of preferred capital stock, and for an order authorizing it to issue 6,600 shares of common stock to retire and cancel 6,600 shares of preferred stock;

And a hearing having been held, and it appearing to this Commission that its further authority is not necessary for the issue of 3,400 shares of common stock to retire 3,400 shares of preferred stock, authority for such exchange having been granted in this Commission's Decision No. 3360, dated May 22, 1916;

And it appearing further that applicant's request that it be allowed to issue 6,600 shares of common stock to retire and cancel a like amount of preferred stock is reasonable and should be granted, and that the purposes for which it is proposed to issue said 6,600 shares of common stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Southern Counties Gas Company of California be and it is hereby authorized to issue 6,600 shares of common capital stock upon the following conditions and not otherwise:

(1) The 6,600 shares of common stock herein authorized to be issued shall be issued solely for the purpose of retiring and cancelling 6,600 shares of preferred capital stock now outstanding.

(2) The amount of stock herein authorized to be issued shall not be binding upon this Commission or any court or any other public body as a finding as to the value of the properties of Southern Counties Gas Company of California or any portion of said properties.

(3) The authority herein granted to petitioner to issue said 6,600 shares of common stock shall not be interpreted or construed otherwise than as a grant of permission from this Commission to applicant in practical effect to reclassify stock heretofore outstanding, entailing in no degree a recognition of any value or values in said common stock.

(4) Southern Counties Gas Company of California shall keep separate, true and accurate accounts showing the records of the issue of the stock herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the amounts of said stock issued during the preceding month, and the amounts of preferred stock retired and canceled thereby.

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(5) The authority herein granted to issue and exchange stock shall apply only to such stock as shall have been issued and exchanged on or before November 30, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of California.

Dated at San Francisco, California, this 8th day of July, 1916.

DECISION NO. 3494.

CENTRAL CALIFORNIA TRACTION COMPANY
vs.
STOCKTON TERMINAL AND EASTERN RAILROAD COMPANY.

Case No. 948.

Decided July 8, 1916.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

FIRST SUPPLEMENTAL ORDER.

This Commission having issued its order in the above entitled matter on June 24, 1916 (Decision No. 3457), and said order having required all trains or cars of Central California Traction Company and Stockton Terminal and Eastern Railroad Company to hereafter be brought to a full stop at a distance of two hundred (200) feet from the railroad crossing at Cherokee lane in the city of Stockton, and not to pass over such crossing until it shall have been ascertained that it is safe to do so, and the complainant, Central California Traction Company, now having asked this Commission to modify said order to the extent that the street cars operated by complainant may be permitted to stop at a distance of fifty (50) feet from the Cherokee lane crossing of the Stockton Terminal and Eastern Railroad, and not to pass over such crossing until it shall have been ascertained safe to do so, for the reason that the view is obstructed on one approach to the crossing at a distance of two hundred (200) feet, as specified in the original order in this proceeding; and such requested amendment appearing reasonable and not endangering the safety of passengers, employees or property of the parties in this proceeding,

It is hereby ordered that section 1 of Decision No. 3457 be amended to read as follows:

> All trains or cars of both companies shall be brought to a full stop at a distance of two hundred (200) feet from the crossing, and shall not pass over the same until it shall have been ascertained that it is safe to do so. The street cars operated by the Central

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California Traction Company on Cherokee lane shall be brought to a full stop at a point fifty (50) feet distant from the tracks of the Stockton Terminal and Eastern Railroad, and shall not pass over the same until it has been ascertained that it is safe to do so.

It is further ordered that the order of this Commission of June 24, 1916, in the above entitled matter (Decision No. 3457) remain in full force and effect so far as not in conflict with the order herein.

The foregoing first supplemental order is hereby approved and ordered filed as the first supplemental order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 8th day of July, 1916.

DECISION NO. 3495.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF NINETEEN THOUSAND DOLLARS, PREFERRED STOCK OF THE PAR VALUE OF SIXTY-SEVEN THOUSAND DOLLARS AND COMMON STOCK OF THE PAR VALUE OF TWENTY-ONE THOUSAND FIVE HUNDRED DOLLARS.

Application No. 2337.

Decided July 8, 1916.

Applicant authorized to issue $7,000.00 face value of bonds to be sold at not less than 90, $10,000.00 par value preferred stock to be sold at not less than 90, and $20,000.00 par value of common stock to be sold at not less than par, proceeds of the bonds to be used to reimburse treasury, which amount shall be used solely for the payment of interest on bonds. Proceeds of stock sales to be used for the purpose of discharging notes and accounts payable. Stock petitioned for for the purpose of extensions and betterments held in abeyance pending the submission of a more detailed estimate of such expenditures.

C. S. S. Forney, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application by Central California Gas Company for authority to issue $19,000.00 face value of its first mortgage 6 per cent bonds; $67,000.00 par value of 6 per cent cumulative preferred stock; and $21,500.00 par value of common stock. The applicant proposes to issue $12,000.00 face value of the bonds, on the basis of reimbursement, directly to its sinking fund, and to issue the remaining $7,000.00 of bonds for reimbursement, and thereafter to use the proceeds for the payment of interest.

The applicant proposes further to use the proceeds from the sale of its preferred and common stock for the liquidation of notes and

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accounts payable, for the reimbursement of its treasury, and for additions and betterments.

At the opening of the proceedings in connection with this application attention was called to the fact that Mr. C. S. S. Forney, president of Central California Gas Company, had, pursuant to orders of this Commission, returned to the applicant $17,000.00 par value of preferred stock, had given his note for $2,924.00, and had made certain adjustments in his accounts, to all of which reference was made in previous orders of this Commission.

Central California Gas Company submits the following statement of assets and liabilities as of May 31, 1916:

Assets.

Fixed capital	$500,158 88
Cash	72 69
Accounts receivable	13,352 83
Notes receivable	2,924 00
Materials and supplies	6,204 32
Discount on stock and bonds	84,307 00
Other assets	10,191 65
Total	$617,211 37

Liabilities.

Common stock	$63,500 00
Preferred stock	183,000 00
Funded debt	293,000 00
Notes payable	27,364 27
Accounts payable	11,677 64
Interest accrued	7,325 00
Surplus and reserves	31,344 46
Total	$617,211 37

The surplus and reserve item as divided shows reserve, $12,341.00, and surplus, $19,003.46.

Applicant represents that it has invested in additions to fixed capital prior to May 31, 1916, the sum of $51,465.88, against which no stock or bonds have been issued.

Applicant states that these additions are represented by the temporary investment of its surplus and reserve and by amounts owing and unpaid and represented by notes payable and accounts payable. If its application is granted, applicant states that it will use the moneys derived from reimbursement in discharging floating liabilities and for additions and betterments.

The notes payable of the company, as shown by the balance sheet in the sum of $27,364.27 and the accounts payable in the sum of $11,677.64, it is alleged, are represented by an equivalent amount of investments in fixed capital. The surplus of the company as shown by the balance sheet, amounting to $19,003.46, is offset in an amount carried

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as other assets in the sum of $10,191.65, which leaves a net surplus of $8,811.81 as net income that may be reimbursed from the sale of securities.

While this balance sheet may be subject to correction and revision, I believe the applicant at this time may be authorized to issue $7,000.00 of bonds for the purpose of reimbursing its treasury, on the sole condition, however, that this money be applied toward the payment of interest on the company's outstanding bonds.

I find no basis upon which the applicant could be authorized to issue the $12,000.00 of bonds for sinking fund purposes. The applicant will, of course, be expected to make its sinking fund payments, and in this connection will be expected to set up a sinking fund reserve account, so that payments into sinking fund from income for the redemption of bonds may appear in this reserve account and not in surplus.

The applicant may be permitted to issue common and preferred stock for the purpose of liquidating notes and accounts, and for this purpose I recommend at this time that authority be granted for the issuance of $20,000.00 of common stock at par as requested by the applicant, and $10,000.00 of preferred stock at 90. While applicant has asked for a further issue of stock for proposed additions and betterments, this may be deferred until the applicant has more definitely decided upon the details and submits them to this Commission. A supplemental order may then be issued authorizing the issue of such stock or bonds as may be found proper to provide funds for such additions and betterments as may be necessary.

Accordingly I submit the following form of order:

ORDER.

Central California Gas Company having applied to this Commission for authority to issue bonds and stock as set forth in the foregoing opinion, and a hearing having been held and it appearing to this Commission that the bonds and stock herein authorized to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Central California Gas Company be granted authority and it is hereby granted authority to issue $7,000.00 of its first mortgage 6 per cent bonds.

It is further ordered that Central California Gas Company be granted authority and it is hereby granted authority to issue $10,000.00 of its 6 per cent cumulative preferred stock.

It is further ordered that Central California Gas Company be granted authority to issue $20,000.00 par value of its common capital stock.

The authority herein granted to issue said bonds and stock is granted upon the following conditions and not otherwise:

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(1) The $7,000.00 of bonds hereby authorized to be issued shall be sold at not less than 90 per cent of face value, plus accrued interest, and the cash received therefrom shall be used to reimburse applicant's treasury and thereafter applied solely for the payment of interest upon applicant's outstanding bonds; the authority herein granted as to said $7,000.00 of bonds being conditioned specifically upon such use of the proceeds.

(2) The $10,000.00 par value of 6 per cent preferred stock herein authorized to be issued shall be sold at not less than 90 per cent of par value and the proceeds derived therefrom shall be used for the payment of notes or accounts payable owing by said company on May 31, 1916, and contained in a list submitted in connection with the application herein and marked Exhibit "A," to which reference is hereby made.

(3) The $20,000.00 par value of common stock hereby authorized to be issued shall be sold at not less than par and the proceeds received therefrom shall be used for the payment of notes or accounts payable owing by said company on May 31, 1916, and contained in a list submitted in connection with the application herein and marked Exhibit "A," to which reference is hereby made.

(4) Central California Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and bonds hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said stock and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted shall apply to such stock and bonds as shall have been issued on or before December 31, 1916.

(6) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

The authority herein requested by the applicant for the issue of $12,000.00 of bonds for reimbursement to satisfy the sinking fund is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 8th day of July, 1916.

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DECISION No. 3496.

IN THE MATTER OF THE APPLICATION OF INGLEWOOD WATER COMPANY FOR AN ORDER AUTHORIZING IT TO CHANGE RATES, ISSUE BONDS AND PURCHASE WATER SYSTEM FROM HYDE PARK WATER COMPANY, AND OF THE LATTER COMPANY TO SELL SAID SYSTEM.

Application No. 1972.

Decided July 8, 1916.

REPORT OF THE COMMISSION.

THIRD SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 3311, dated May 6, 1916, authorized Inglewood Water Company to execute a mortgage or deed of trust substantially in the form and tenor of a mortgage or deed of trust submitted by applicant and marked Exhibit "K"; and

Whereas Inglewood Water Company has now applied to the Commission for authority to make certain changes in said mortgage or deed of trust as approved by the Commission; and good cause appearing,

It is hereby ordered that Inglewood Water Company be and it is hereby granted authority to amend the mortgage or deed of trust approved by this Commission in Decision No. 3311, dated May 6, 1916, as follows:

Article I, section 7, page 6 of said trust deed to be amended by the addition of a new paragraph substantially in the following form:

> "Such portion of said bonds as shall be necessary to retire all prior lien mortgage debts of the company shall be utilized for that purpose, and such prior lien mortgage debt or debts shall at once be paid, discharged and released."

Article I, section 8, page 6 of said trust deed to be amended by the addition of a new paragraph substantially in the following form:

> "Such additional bonds shall not be issued, however, unless the net earnings of the company during the twelve consecutive months in the fourteen months next preceding the issuance thereof, shall have amounted to at least one and one-half times the combined amount of interest on the bonds theretofore issued and the bonds so to be issued; such 'net earnings' shall be deemed to mean the amount remaining after deducting from the year's earnings all taxes, maintenance charges and operating expenses, except depreciation charges, sinking fund charges and interest on indebtedness."

It is hereby further ordered that Decision No. 3157, dated March 4, 1916, and said orders as have been issued supplemental thereto shall remain in full force and effect except as modified by this third supplemental order.

Dated at San Francisco, California, this 8th day of July, 1916.

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Decisions Nos. 3497 and 3498, grade crossings; not printed. See end of volume.

DECISION NO. 3499.

IN THE MATTER OF THE APPLICATION OF THE TIDEWATER SOUTHERN RAILWAY COMPANY FOR AN ORDER PERMITTING THE CONSTRUCTION OF A CROSSING AT GRADE OVER THE TRACKS OF THE SOUTHERN PACIFIC COMPANY, A CORPORATION, ON THE LINE OF THE SOUTHERN PACIFIC RAILROAD, ABOUT ONE MILE SOUTH OF THE TUOLUMNE RIVER, BETWEEN MODESTO AND CERES.

Application No. 2340.

Decided July 10, 1916.

When a separation of grades is found to be impractical, the installation of an interlocking plant, though not as desirable as the separation, will adequately protect the crossing. Tidewater Southern Railroad Company permitted to construct its line of railway across the tracks of Southern Pacific Company at grade, provided, a standard interlocking plant is installed, expense thereof to be borne by applicant.

Geo. D. Squires, for Southern Pacific Company.

James D. Meredith, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was filed with the Commission on June 9, 1916, and a public hearing was held July 1st.

The Tidewater Southern, in the vicinity of the crossing, is located in a general north and south direction and will cross the Southern Pacific tracks at an angle of 28° 18′. The Southern Pacific track is paralleled on the south side by the state highway and on the north side by a county road. An east and west county road intersects the Southern Pacific tracks about at the point of the proposed crossing.

The Tidewater Southern Railway Company was constructed to Modesto several years ago and it is extending its line to Turlock. The crossing now projected is on its proposed line south and the company is making every effort to complete it in order to serve the territory between Modesto and Turlock for fall shipments.

The Southern Pacific Company opposed the granting of this application, in the form in which it is presented, contending that the crossing should be made at separated grades. In support of this position it submitted an estimate of the cost of an overhead structure which, on a 2 per cent grade, would require about 1,300 feet of approaches and would cost in the neighborhood of $36,500.00. The plan provided for pile trestle approaches, with steel spans over the two county roads, the state highway and the railroad track. To overcome the delay required

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to build such a structure, the Southern Pacific suggested the construction of a temporary wood structure over the tracks to be replaced later by steel. This temporary structure it was estimated could be constructed in thirty days or less.

While traffic on the track of the Tidewater Southern will, for the first year or so of operation, consist of not to exceed two trains each way per day, the traffic on the Southern Pacific consists of seven passenger trains and between 12 and 20 freight trains both ways per day. The crossing is in high speed territory and it is clear to me that an unprotected grade crossing should by no means be permitted at this point. This matter was considered by both companies. The Tidewater Southern submitted an estimate of the cost of an interlocking plant of $6,000.00, while the signal engineer of the Southern Pacific Company is of the opinion that a satisfactory interlocking plant would cost $10,000.00.

There is no doubt but that the applicant should be permitted to cross the tracks of the Southern Pacific Company and make its extensions to Turlock and the only point to be decided is how the crossing shall be made. I am satisfied that it should be made at separated grades or protected by an interlocking plant if made at grade. The overhead structure estimated by Southern Pacific Company to cost $36,500.00, was, as I have said, on a 2 per cent grade. I believe that the Southern Pacific Company would not consent to have such grades on its own line, and as the Tidewater Southern will operate, at least for the first year, by means of steam locomotives, it appears to me to be unreasonable to require that company to use such a grade line. Mr. Byron Bearce, president of the Tidewater Southern, made an estimate of an overhead crossing on a 1 per cent grade and arrived at a cost figure of $45,000.00. Probably when the difference in the length of approaches is taken into consideration this figure is not far from being what such a structure would actually cost. Considering the interlocking plant as costing $10,000.00, this would leave a balance of $35,000.00 against a grade separation. Mr. Bearce testified that at the present time his company was absolutely unable to assume an expense of even $36,000.00 for a grade separation and to require an expenditure of $45,000.00 at this point would be equivalent to a denial of this application. Mr. Bearce stated that his company could and would assume the expense of an interlocking plant. An interlocking plant represents, apart from a separation of grades, the highest development of safety measures for the protection of grade crossing and with thousands of them in operation in the United States serious accidents are very rarely reported. The Southern Pacific Company has many of them on its own lines, and although they are not as desirable as a grade

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separation they can by no means be considered objectionable. It is true that if an overhead crossing were made at this point it would include also the state highway and the county roads. The county roads, however, are very little used, and as far as the state highway is concerned there is no reason why the installation of an interlocking plant should not include gates, operated from the interlocking tower, which would protect the state highway crossing. There is, of course, the additional fact to consider that freight train service on the Tidewater Southern will be slow and infrequent.

In view of these facts I shall recommend that this application be granted, provided an interlocking plant is installed. The material for an interlocking plant must be ordered from the East and as this will result in considerable delay, I believe that applicant should be permitted to cross temporarily the track of the Southern Pacific Company, provided a flagman is stationed there by the latter company. This flagman should be paid for by the applicant and should be in touch with the Southern Pacific stations on either side of the crossing. Southern Pacific trains should run at slow speed and the Tidewater Southern trains should not pass over the crossing until the flagman has given them permission to do so.

I recommend the following form of order:

ORDER.

Tidewater Southern Railway Company, having applied to the Commission for permission to construct its track at grade across the track of Southern Pacific Company 1½ miles south of Modesto, and a public hearing having been held, and it appearing to the Commission that this application should be granted subject to certain conditions,

It is hereby ordered that permission be and the same is hereby granted Tidewater Southern Railway Company to construct its track at grade across the track of Southern Pacific Company at the point and in the manner shown by the map attached to the application, subject to the following conditions and not otherwise, viz:

(1) The entire expense of constructing this crossing shall be borne by applicant.

(2) For the protection of this crossing applicant shall, five (5) months from the date of this order, install and place in operation a standard interlocking plant which shall in all respects comply with the specifications in the Commission's General Order No. 33.

(3) The expense of installing this interlocking plant shall be borne by applicant. The expense of its maintenance and operation thereafter shall be borne equally by Southern Pacific Company and applicant.

(4) After the crossing frogs are installed and before the installation of the interlocking plant a flagman shall be maintained at this crossing

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who shall be an employee of the Southern Pacific Company and who shall be paid by the applicant.

(5) All trains, engines, motors and cars of applicant shall, before proceeding over the crossing, come to a full stop within one hundred (100) feet thereof and shall not proceed over same until proper signal has been received from the flagman.

(6) Until the installation of an interlocking plant, all engines, trains, motors and cars of Southern Pacific Company shall approach this crossing and proceed over it at a speed not greater than ten miles per hour.

(7) Before installing the frogs at this crossing applicant shall assure the Commission that it has made ample provision to provide funds to install this interlocking plant.

(8) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of this crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 10th day of July, 1916.

DECISION No. 3500.

IN THE MATTER OF THE APPLICATION OF CORONA GAS AND ELECTRIC LIGHT COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE A FIRST MORTGAGE COVERING ITS PROPERTIES IN THE STATE OF CALIFORNIA, AND ALSO FOR AN ORDER AUTHORIZING THE ISSUE, USE AND SALE OF FIRST MORTGAGE BONDS.

Application No. 1988.

Decided July 10, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas this Commission on June 27, 1916 (Decision No. 3462), authorized the applicant herein to execute a mortgage upon its properties in the form of a mortgage submitted by applicant on June 23, 1916, filed as Exhibit "E"; and

Whereas applicant has now applied to this Commission for authority to amend said mortgage in certain particulars.

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It is hereby ordered that Corona Gas and Electric Light Company be and it is hereby authorized to amend Exhibit "E," filed by the applicant in this proceeding on June 23, 1916, and approved by the Commission on June 27, 1916, so that page twenty-six (26) of said exhibit shall read as follows:

"authorizing the issue and sale of first mortgage bonds hereunder, and pursuant to such application and after a public hearing thereon the said Commission has issued its order authorizing the Corona company to execute and deliver this mortgage or deed of trust, and has further authorized the Corona company to issue its first mortgage bonds of series A secured hereby, to the principal amount or par value of fifty-eight thousand five hundred (58,500) dollars; said bonds to be issued and the proceeds thereof to be used as hereinafter set forth and for the following purposes:

"*First*—Bonds to the principal amount or par value of fifty-eight thousand five hundred (58,500) dollars (or so much thereof as may be necessary) shall forthwith be executed by the Corona company and delivered to the trustees for authentication and certification, and said bonds shall be certified and delivered to the Corona company, or upon its order, as authorized by the Railroad Commission of the state of California, and sold by the Corona company so as to net the Corona company not less than ninety per cent of the face value thereof plus accrued interest; the proceeds derived from the sale of said bonds to be held in a special fund by the Corona company and used for such lawful corporate purposes as may be authorized and approved by said Commission, including the acquisition of property, and for betterments, extensions and improvements to the generating and distributing plants, works, lines and systems of the Corona company.

"When said bonds, or the proceeds thereof, shall have been used as herein set forth, any additional properties and assets thus acquired by the Corona company over and above and in addition to the properties specifically described in this mortgage indenture, shall be shown by and included in the certificate or certificates hereinafter provided for, upon which further and additional bonds shall be issued and certified hereunder.

"The trustees shall not be obliged to see to the use or application of any bonds issued hereunder, or of the proceeds thereof, but at any time upon demand in writing the Corona company shall furnish to the trustees, or either of them, a statement showing the use and application of said bonds, or of the proceeds thereof, or of any part thereof."

Dated at San Francisco, California, this 10th day of July, 1916.

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DECISION NO. 3501.

IN THE MATTER OF THE APPLICATION OF BISHOP LIGHT AND POWER COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE A FIRST MORTGAGE COVERING ITS PROPERTIES IN THE STATE OF CALIFORNIA, AND ALSO FOR AN ORDER AUTHORIZING THE ISSUE, USE AND SALE OF FIRST MORTGAGE BONDS.

Application No. 1897.

Decided July 10, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission on May 19, 1916 (Decision No. 3348), authorized the applicant herein to execute a mortgage upon its properties as security for an issue of first mortgage bonds upon condition that the applicant should first submit to the Commission for its approval a copy of its proposed mortgage or deed of trust and secure a supplemental order from this Commission approving the same; and

Whereas applicant has now submitted a proposed form of mortgage, and it appearing to this Commission that the same is in proper form,

It is hereby ordered that the form of mortgage submitted by the applicant herein on June 29, 1916, and filed as Exhibit "D" be and the same is hereby approved.

The approval herein given of said mortgage is for the purpose of this proceeding only and is an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subjected.

Dated at San Francisco, California, this 10th day of July, 1916.

Decision No. 3502, grade crossing; not printed. See end of volume.

DECISION NO. 3503.

PANAMA MACARONI COMPANY ET AL.

vs.

SOUTHERN CALIFORNIA EDISON COMPANY.

Case No. 964.

Decided July 12, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing from correspondence on file herein that the defendant in the above entitled proceeding has satisfied the complaint and that

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Panama Macaroni Company has requested that said proceeding be dismissed,

It is hereby ordered that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 12th day of July, 1916.

DECISION NO. 3504.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA TRACTION COMPANY AND STOCKTON ELECTRIC RAILROAD COMPANY FOR THE APPROVAL OF A CERTAIN AGREEMENT, ALSO FOR THE ABANDONMENT OF CERTAIN PORTIONS OF THE STREET RAILWAY SYSTEM IN THE CITY OF STOCKTON, AND THE CANCELLATION OF CERTAIN PASSENGER RATES.

Application No. 1470.

Decided July 12, 1916.

Applicant was heretofore refused permission to abandon that portion of its street railway system on Park street, from Aurora street to Union street, in the city of Stockton. It now having made arrangements to transfer such passengers over the line of the Stockton Electric Railway, giving them privilege of transfer to all points on the latter system, an order is entered as heretofore petitioned for.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas this Commission having on March 18, 1915, made an order granting the application in this proceeding upon certain conditions, one of which, *i.e.*, Condition No. 4, provided as follows:

> "Application to abandon that portion of the tracks of the Central California Traction Company presently in operation on Park street from Aurora street to Union street is hereby denied,"

such denial being based on the portion of the opinion in this matter reading as follows:

> "Considering now the abandonment of the line on Park street from Aurora street to Union street and the discontinuance of passenger service on the Cherokee lane line: It is necessary first to consider that portion of this line running along Cherokee lane and serving what is known as the Sunnyside District. It is not proposed to abandon and tear up this piece of track, but the applicant desires to discontinue passenger service thereon and restrict the same exclusively to freight service. Vigorous protest was entered against this feature of the application by many residents in the Sunnyside and adjoining districts, who testified to the great injury which would result to their property should the passenger service be discontinued.

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"This situation differs radically from the abandonment of the lines on San Joaquin street and on McKinley avenue which, for reasons hereinbefore stated, will be reasonably cared for. The Sunnyside District will be left practically without any service whatever except an occasional interurban car running on an infrequent schedule between Sacramento and Stockton. Such a service would, in our opinion, be wholly inadequate. Considerable testimony was given relating to the cost of maintenance of this line, but it must be remembered that such maintenance charges will continue to be present as long as the line is operated for freight service. A number of witnesses testified that they had purchased property and erected homes on the faith of the continuance of this service, and we are not willing to approve an application which will have the effect of not only depreciating the value of the property of the citizens of this section but also depriving them of any adequate service whatever. We are, therefore, of the opinion that no adequate reason was advanced why passenger service on the Cherokee lane line should be discontinued.

"It necessarily follows, therefore, that the abandonment of the line from Park street at its intersection with Aurora street to Union street can not be approved until such time as the applicant presents to the Commission a plan for the operation of through cars via some other of its lines in connection with the Cherokee lane line."

And whereas it appears that arrangements have been perfected whereby passengers on the Cherokee lane line of the Central California Traction Company are transferred at the intersection of Ophir and Park streets to the Ophir street line of the Stockton Electric Railroad Company, such line transporting passengers directly to the business center of the city of Stockton with transfer privilege to and from all the lines of the Stockton Electric Railroad Company, and the matter having been investigated by the Commission and it appearing that by reason of the arrangement above outlined the protests against the abandonment of the line of the Central California Traction Company on Park street from Aurora street to Union street have been withdrawn, and the routing of traffic satisfactorily cares for the patrons of the Central California Traction Company living in the so-called Sunnyside District, and that such portion of the application should now be granted,

It is hereby ordered that Condition No. 4 appearing in the Commission's order in this proceeding under date March 18, 1915 (Decision No. 2243), be canceled for the reasons above outlined and that the applicant, Central California Traction Company, be and the same hereby is granted permission to abandon and remove its single track railroad on Park street in the city of Stockton from Aurora street to Union street.

Dated at San Francisco, California, this 12th day of July, 1916.

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DECISION No. 3505.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY, OF FRANKLIN V. SPOONER, ROBERT R. PARDOW AND JOHN C. RUED, AND OF HENRY E. COOPER, A. M. HUNT, JAMES D. PHELAN, GEORGE WHITTELL, DAVID R. FORGAN, I. DEBRUYN, C. LEDYARD BLAIR, FREDERICK H. ECKER, STARR J. MURPHY, ROBERT W. MARTIN, WILLIAM SALOMON AND RICHARD B. YOUNG, AS THE REORGANIZATION COMMITTEE CONSTITUTED BY THE PLAN AND AGREEMENT OF REORGANIZATION OF WESTERN PACIFIC RAILWAY COMPANY, FOR AUTHORIZATION OF PROCEEDINGS PURSUANT TO SAID PLAN AND AGREEMENT OF REORGANIZATION.

Application No. 2351.

Decided July 12, 1916.

Authorization issued permitting (1) transfer of properties of Western Pacific Railway Company to The Western Pacific Railroad Company, provided the latter road shall file a stipulation to the effect that it shall never claim a value for any franchise or permit transferred, in excess of the original actual cost thereof; (2) Western Pacific Railroad Company to issue $47,500,000.00 par value of common, and $27,500,000.00 par value of preferred, stock and $20,000,000.00 face value of 5 per cent first mortgage bonds. Thirteen shares of common stock to be issued to thirteen directors at par, the balance to be transferred, together with all of the preferred stock, and a sum in cash of not to exceed $2,000,000.00 to the holding company. Bonds to be sold at not less than 90, of the proceeds, a sum not to exceed $2,000,000.00 for reorganization expenses, to pay distributive shares of nonassenting bondholders and other miscellaneous expenses, the balance for improvements, additions and extensions to existing system. The execution of a deed of trust securing such bonds is also authorized.

Claims for compensation made by various attorneys and participants in the reorganization of Western Pacific Company severely criticised as being out of all proportion to the services rendered, and the suggestion made that reorganizations would be as expeditiously, efficiently and far less expensively handled if conducted by the Interstate Commerce Commission in the case of interstate utilities and the various railroad or public service commissions in the case of intrastate utilities.

Of the total amount petitioned for in the sum of $2,350,000.00 covering reorganization expenses, such as underwriting commission, fees, taxes, etc., the sum of $2,000,000.00 is permitted to be capitalized, amounts expended for the above items in excess thereof must be obtained from earnings at present in the hands of receivers or from sources other than capitalized expenditures.

John F. Bowie, for Petitioners.

Perry Evans, for Western Pacific Railway Company.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

The supplemental petition herein was filed on July 7, 1916. The petition alleges, in effect, that at a foreclosure sale held in the case of *The Equitable Trust Company of New York, Complainants,* vs. *Western Pacific Railway Company et al., Defendants,* Equity No. 169, in the District Court of the United States for the Northern District of California, the entire property of Western Pacific Railway Company was

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sold for the sum of $18,000,000.00 to Franklin V. Spooner, Robert R. Pardow and John C. Rued, acting at the instance of and pursuant to an arrangement with the reorganization committee constituted under the plan and agreement of reorganization, dated December 15, 1915, of Western Pacific Railway Company; that said sale was duly confirmed by a decree of said court entered on July 1, 1916; that said purchasers have transferred all their rights to The Western Pacific Railroad Company, one of the petitioners herein; that a deed to said property is to be executed to The Western Pacific Railroad Company by Francis Krull, the special master, Western Pacific Railway Company, Warren Olney, Jr., and Frank G. Drum, as receivers of the property of Western Pacific Railway Company, The Equitable Trust Company of New York as trustee under the first mortgage of Western Pacific Railway Company, Central Trust Company of New York as trustee under the second mortgage of Western Pacific Railway Company, and the said three purchasers; that The Western Pacific Railroad Company desires to execute a revised deed of trust or mortgage to First Federal Trust Company of San Francisco and Henry E. Cooper, as trustees, to secure an authorized issue of bonds of the face value of $5,000,000.00; and that The Western Pacific Railroad Company, upon the issue of the bonds and capital stock referred to in the order of June 26, 1916, herein is to acquire the entire property of Western Pacific Railway Company and certain additional property hereinafter described. A description of the property to be acquired by The Western Pacific Railroad Company, as of July 10, 1916, is stated by petitioners to be as follows:

(*a*) All of the railroad, properties, franchises, shares of stock, accounts receivable, and other assets of Western Pacific Railway Company and its receivers, subject, however, to the payment of taxes, the liabilities of the receivers, preferred indebtedness of Western Pacific Railway Company and other amounts which are charged on said property by the decrees of foreclosure and confirmation.

(*b*) Cash in the hands of the receivers which since the date of the hearing of the original petition has increased to the sum of---$2,082,204 99

(*c*) The sums received by the reorganization committee from the depositors under the plan who elected to pay in full their subscriptions (covering $4,539,380 principal amount of bonds) June 26, 1916, amounting to---------- 4,085,442 00

(*d*) The sum received by the reorganization committee from the underwriting syndicate as payment in full for $5,070,631.27 principal amount of bonds amounting to---------- 4,563,568 15

(*e*) The sums received by the reorganization committee from subscribing depositors who elected to pay only the installment of 20 per cent called on June 26, 1916, on their subscrip-

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tions (the total face amount of bonds covered whereby is $2,831,640) amounting approximately to	509,695 00
Total cash, approximately	$11,240,910 14
Less sum to be retained by the purchasers amounting to	2,350,000 00
Net amount to be paid The Western Pacific Railroad Company, approximately	$8,890,910 14
(*f*) The rights of the reorganization committee under the subscriptions of syndicate and depositors for the unpaid portion of their subscriptions amounting (exclusive of accrued interest) to	$8,841,295 00

The petition asks that the Railroad Commission make its order as follows:

1. Authorizing Western Pacific Railway Company to sell and convey its entire property to The Western Pacific Railroad Company.

2. Authorizing The Western Pacific Railroad Company to issue thirteen (13) shares of its common capital stock, of the par value of $100.00 each, to its thirteen directors, one share to each director, upon the payment for said stock in cash at par.

3. Authorizing The Western Pacific Railroad Company to issue 474,987 shares of its common capital stock, of the par value of $47,498,700.00 and 275,000 shares of its noncumulative 6 per cent preferred capital stock, of the par value of $27,500,000.00, to the purchasers or their assigns, in total payment, with the exception of $2,350,000.00, in cash, for the entire property of Western Pacific Railway Company and its receivers, subject to the charges imposed thereon by the decrees of foreclosure and confirmation heretofore entered in said case of *The Equitable Trust Company of New York, Complainant,* vs. *Western Pacific Railway Company et al., Defendants.*

4. Authorizing The Western Pacific Railroad Company to issue its first mortgage 5 per cent gold bonds of the face value of $20,000,000.00, and to sell the same so as to net not less than 90 per cent of their face value, plus accrued interest, provided that The Western Pacific Railroad Company may credit the purchasers or their assigns on account of the purchase price of the bonds with the interest paid or allowed by the reorganization committee to subscribing depositors and the underwriting syndicate for the period elapsing between the dates of payment by said subscribers or underwriting syndicate to the reorganization committee in payment for bonds and the date of payment by the reorganization committee to The Western Pacific Railroad Company, the total not to exceed the sum of $15,000.00, and also the amounts received by The Western Pacific Railroad Company in payment of 10 per cent heretofore made on subscription for 14,987 shares of its common capital stock, amounting to $149,870.00.

5. Authorizing The Western Pacific Railroad Company to execute and deliver to First Federal Trust Company and Henry E. Cooper,

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as trustees, a deed of trust or mortgage to secure its first mortgage gold bonds of the maximum face value of $50,000,000.00.

A public hearing on the supplemental petition was held in San Francisco on July 8, 1916, before the Railroad Commission *en banc*. It appeared at this hearing that on June 28, 1916, the entire property of Western Pacific Railway Company, subject to certain outstanding obligations, was sold for the sum of $18,000,000.00 to three individual purchasers; that these purchasers have assigned their rights, in accordance with a previous agreement, to The Western Pacific Railroad Company, and that the parties desire the Railroad Commission's authority to the consummation of the transaction, in so far as the Commission's consent is necessary.

The first request is that Western Pacific Railway Company be authorized to sell and convey its entire property to The Western Pacific Railroad Company, subject, however, to the "payment of taxes, the liabilities of the receivers, preferred indebtedness of Western Pacific Railway Company and other amounts which are charged on said property by said decrees."

In addition to the taxes accruing in California, Nevada and Utah, and now amounting to approximately $111,618.00, the only claims against the property for taxes are the sum of $14,080.00, being an amount claimed by the federal government as income tax and an item claimed by the city and county of San Francisco as taxes on the cash in the hands of the receivers. Both the latter items have been contested by the receivers. Petitioners report that the accounts payable and other fixed liabilities of the receivers on July 10, 1916, were approximately $872,574.10, and that the accounts receivable were $588,499.50. There are possible contingent liabilities on freight claims and personal injury, fire and live stock claims, the total estimated payments on which, it is reported, will not exceed the sum of $60,000.00. The preferred indebtedness consists of a claim of the Southern Pacific Company which has been allowed to the extent of $1,400.00, and a claim of Utah Fuel Company amounting to approximately $40,000.00, which claim is being contested in its entirety.

While technically there are no "other amounts which are charged on said property by said decrees," the purchasers of the property were compelled to deposit with the special master in the foreclosure proceedings the sum of $402,063.60 to cover certain items to which reference will now be made, which sum must be repaid to the purchasers or their assigns, in so far as allowed by the federal court, by The Western Pacific Railroad Company, either from cash in the hands of the receivers or from some other source.

Said sum of $402,063.60 represents the proportionate share of the assenting bondholders in a total sum of $425,000.00. As the portion of

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that sum which may hereafter be allowed by the federal court must be paid by The Western Pacific Railroad Company and will to that extent diminish the ability of The Western Pacific Railroad Company to make betterments to the existing property, acquire new passenger and freight equipment and construct necessary extensions and feeders, for all of which purposes The Western Pacific Railroad Company has asked the Railroad Commission to authorize the issue of bonds, it becomes necessary for the Commission to inquire into the various items which enter into the total amount which the purchasers have been compelled to deposit with the special master. These items, as recited in the decree of confirmation, are as follows:

1. Claim of receivers' counsel	$170,000 00
2. Claim of receivers	80,000 00
3. Claim of complainant	25,000 00
4. Claim of complainant's counsel	75,000 00
5. Compensation and expenses of special master	30,000 00
6. Costs and expenses of complainant and counsel, and all other charges	25,000 00

The claim of John S. Partridge, attorney for the receivers, is for a fee of approximately $125,000.00 per year for his services as counsel for the receivers. The salaries of the entire legal department of Western Pacific Railway Company, with the exception of certain local counsel, prior to the receivership, were not to exceed $25,000.00 per year, consisting of $10,000.00 for the general counsel, $7,200.00 for the general attorney, and the compensation of two or three other attorneys. During the receivership this legal staff, with the exception of general counsel, was retained and paid by the receivers, and continued to perform most of the legal work theretofore handled by the department. Mr. Partridge's services consisted of the usual routine work of counsel for receivers in a railroad receivership, together with the trial of a number of cases and some other work. The counsel for the receivers retained his general practice in the same office in which he practiced law prior to the receivership. Mr. John F. Bowie, counsel for the reorganization committee, testified that he had stated to Mr. Partridge that, in his judgment, a fee of $40,000.00 would be a liberal compensation. This claim has not been approved by the receivers. In fact, Mr. Warren Olney, Jr., one of the receivers, as testified to by Mr. Bowie, has taken the position, as shown by the testimony herein, that the amount of the fee as claimed is not justified in any manner, shape or form.

The claim of the receivers is for $80,000.00. The testimony shows that the receivers met every morning on receivership matters. Each receiver, however, continued the business in which he was theretofore engaged, one as a member of one of the leading law firms in San Francisco and the other as a financier connected with numerous corporations. The testimony shows that Mr. C. M. Levey, who operated the railroad

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under the receivers and attended to all the details of operation, received a salary of $20,000.00 per year.

The Equitable Trust Company of New York, trustee under the first mortgage of Western Pacific Railway Company and complainant in the foreclosure proceeding in the federal court, claims a compensation of $25,000.00 for its services. This is the only one of the items above referred to which is not being contested before the federal court by the reorganization committee.

Counsel for complainants ask a fee of $75,000.00 for their services. This fee is to be divided between Murray, Prentice & Howland, the New York attorneys of The Equitable Trust Company of New York, and Jared How of San Francisco. While the exact division of this amount, if it is allowed, has not been determined, the testimony shows that Mr. How's claim is between $25,000.00 and $30,000.00. Counsel for the reorganization committee takes the position that this fee includes a retainer in a suit against The Denver and Rio Grande Railroad Company, and that the fee should not exceed the sum of $50,000.00.

The fee of $30,000.00 for the special master includes an item of $15,000.00 for the federal stamp tax, $4,500.00 for advertising, $1,500.00 for special master's bond and $7,000.00 for his services. The special master is also to take a trip to Europe for the purpose of stamping certain bonds, for which he is to be paid the sum of $5,000.00 in addition to the sum of $30,000.00.

The item of $25,000.00 covers possible costs and expenses hereafter to arise in connection with court proceedings.

Every person who has the welfare of the state of California at heart wishes to see the new railroad given a fair chance to succeed. Every dollar which is not fairly and reasonably necessary for the payment of the expenses of the receivership and other expenses in connection with the reorganization should be saved to the new company, and should be expended by it in the purchase of equipment, in betterments to the property and in the construction of the branches and feeders which are vitally necessary, if the railroad is to succeed.

It seems to be entirely too usual, when a railroad or other utility passes through receivership, for everybody connected therewith, the lawyers, the bankers, the reorganizers, the officers of committees and the special masters, to regard the unfortunate corporation as legitimate prey for the most exorbitant claims—claims which would never be presented by any rational person, for services of the same value, to a going concern. Why services of this character should be deemed so much more valuable when performed for a bankrupt concern than for a going concern is difficult to understand.

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Among the most extravagant of the claims presented in the federal court are, of course, the claims for various counsel fees. Fees amounting to five times the entire annual salary roll of the legal department in San Francisco prior to the receivership, are demanded by the counsel for the receivers, and fees amounting to three times the annual salaries of the entire San Francisco legal department are demanded by the counsel for The Equitable Trust Company of New York. The claims would, of course, never be presented except in the case of a receivership. As a further instance of the fees which, apparently by force of tradition, are claimed in these receivership proceedings, reference may be made to the fee of $7,000.00 claimed by the special master for his services, which services have consisted principally in reading the notice of the sale to the people assembled in front of the Western Pacific Railway Company's depot in Oakland, and accepting the bid made by the purchasers. While he is charged with the responsibility in connection with the custody of certain bonds and the deposit of certain moneys, it is interesting to note that the banks in which these bonds and moneys are deposited claim a separate and additional fee for the same services. It is significant to draw attention to the fact that for the simple service performed by the special master, he is to receive a compensation within $1,000.00 of the annual salary of the members of the Supreme Court of the state of California.

The history of this and similar receivership proceedings from one end of the United States to the other prompts us to suggest that the time has come for a complete change in the handling of such proceedings. Instead of having such proceedings handled by special attorneys, special experts and special officials of various kinds, all claiming extravagant compensation, they could be handled far more economically and generally more efficiently through the Interstate Commerce Commission in case of federal receiverships and through the state railroads or public service commissions in case of state receiverships of public utility properties. These commissions have available impartial experts, trained in every branch of public utility business. With the necessary changes in the laws, the Commissioners and their experts could handle receivership matters more expeditiously, generally more efficiently and always at tremendously less expense than the present court proceedings.

In Decision No. 3453, rendered on June 22, 1916, in the above entitled proceeding, the Railroad Commission stated that it would thereafter authorize the issue of first mortgage bonds of the face value of $20,000,000.00, for certain purposes specified in the order, including the following: "To pay the distributive shares of nonassenting bondholders, underwriting commission, expenses of foreclosure and reorganization, including court costs, compensation and allowances of the receivers and their counsel, the mortgage trustee and its counsel, taxes

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on the creation and issue of new securities, compensation and expenses of the protective and reorganization committees, their depositaries and counsel, fees of engineering, accounting and other experts, engraving, printing and miscellaneous requirements, not to exceed the sum of $2,000,000.00."

The supplemental petition herein now alleges that in addition to the items mentioned in the decree of confirmation, totalling for the assenting bondholders the sum, as now claimed, of $402,063.60, all of which items were included in the items covered by said sum of $2,000,000.00, it will now be necessary to secure from the first mortgage bonds of The Western Pacific Railroad Company the sum of $2,350,000.00. The petition asks that the Commission now amend its order so as to authorize the use of the proceeds of bonds, said proceeds amounting to the sum of $2,350,000.00 for a part of the purposes for the total of which the Railroad Commission has heretofore stated that it would authorize the use of proceeds amounting to $2,000,000.00 from the sale of bonds.

The revised statement of the purposes for which it is proposed to use said $2,350,000.00 has been filed herein and reads as follow:

1. Amount payable to special master as part of purchase price		$971,424 00
2. Commission of underwriting syndicate		400,000 00
3. Compensation of underwriting guarantors		100,000 00
4. Central Trust Company of New York—		
Cross-complainant in foreclosure suit	$5,000 00	
Counsel	7,500 00	
Expenses	107 00	
		12,607 00
5. Special master's trip to Europe—		
Compensation and traveling expenses	$3,000 00	
Expenses of advertising, distributing funds, etc.	2,000 00	
		5,000 00
6. The Western Pacific Railroad Corporation—		
Incorporation tax	$3,850 00	
Federal war tax on original issue of stock	37,500 00	
Federal war tax on transfer of stock	15,000 00	
New York tax on transfer of stock	15,000 00	
Engraving of stock certificates and other printing	5,000 00	
Notaries, filing fees, etc.	100 00	
Resident Delaware agent	100 00	
Counsel fees for preparing charter, by-laws, stock certificates, and attending to incorporation, issue of stock and incidental matters	15,000 00	
		91,550 00
Working capital		150,000 00
7. Dutch bondholders protective committee		20,000 00
8. Dutch stamp tax and transportation of securities		25,000 00
9. Western Pacific first mortgage bondholders committee—		
Depositary and agents of depositary	$40,000 00	
Printing, postage, and other disbursements to date	12,600 00	
Disbursements of counsel	5,400 00	
Counsel fees	60,000 00	
Secretary	5,000 00	
Eleven members of committee at $7,500.00 each	82,500 00	
Chairman	12,500 00	
		218,000 00

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10. Reorganization committee—		
Depositary and agents	$40,000 00	
Printing, postage, traveling expenses and other disbursements to date	20,492 00	
Disbursements of counsel	5,000 00	
Secretary	10,000 00	
Eleven members of committee at $12,500.00 each	137,500 00	
Chairman	27,500 00	
Counsel fees	60,000 00	
		300,492 00
11. Reserved to provide for future expenses, such as insurance on transporting securities between New York, San Francisco, Boston and Chicago, cost of interim receipts of depositaries to be used in case of delay in engraving of permanent securities, and other expenses, any unexpended balance to be turned over to holding company as additional working capital		55,927 00
Total		$2,350,000 00

Many of the items in the foregoing list are entirely reasonable. Other items are clearly too high and should be reduced. We are of the opinion that we would not be justified in authorizing the capitalization of any amount for the items hereinbefore referred to in excess of the amount stated in our original order herein, being the sum of $2,000,000.00. If, after a reasonable effort has been made to place these expenditures on a reasonable basis, the sum of $2,000,000.00 will not be sufficient for this purpose, we assume that any remaining sum may be paid from cash in the hands of the receivers, and not capitalized by the issue of bonds.

We are of the opinion that the protective and reorganization committees and their counsel should be commended for the efforts which they have made to bring about an honest reorganization with as reasonable an expenditure as is consistent with the way in which reorganizations are handled. However, the mere fact that the present reorganization is on terms more reasonable than some other reorganizations in the past is by no means conclusive of the wisdom or efficiency of the present method of handling receiverships.

Western Pacific Railway Company will be authorized to sell and convey its entire property to The Western Pacific Railroad Company, subject to the usual condition that the grantee shall file with the Railroad Commission a stipulation in form satisfactory to the Commission that it will never claim before the Railroad Commission or any other public authority any value for its franchises in the state of California in excess of the sum paid for them by the original grantee.

The Western Pacific Railroad Company will be authorized to issue thirteen shares of its common capital stock, of the par value of $100.00 each, to its thirteen directors, one share to each director, upon the payment for said stock in cash, at par, and will also be authorized to issue 474,987 shares of its common capital stock of the par value of

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$47,498,700.00 and 275,000 shares of its noncumulative 6 per cent preferred capital stock of the par value of $27,500,000.00, to the Western Pacific Railroad Corporation, the holding company, incorporated under the laws of Delaware, in partial payment for the property of Western Pacific Railway Company. The sum of $149,870.00 heretofore paid on a subscription for 14,987 shares of the common capital stock of The Western Pacific Railroad Company will, we assume, be repaid out of cash now in the hands of the receivers.

The Western Pacific Railroad Company will be authorized to execute and deliver to First Federal Trust Company and Henry E. Cooper, as trustees, a deed of trust or mortgage in substantially the form attached to the supplemental petition herein as "Supplemental Exhibit No. 3," securing a maximum issue of first mortgage bonds of the face value of $50,000,000.00.

The Western Pacific Railroad Company will be authorized to issue bonds of the face value of $20,000,000.00 and to use the proceeds thereof for the purposes specified in the order herein of June 22, 1916.

FIRST SUPPLEMENTAL ORDER.

Western Pacific Railway Company and The Western Pacific Railroad Company and other parties having filed herein a supplemental petition as indicated in the opinion which precedes this order, and a public hearing having been held on said supplemental petition, and the Railroad Commission finding that the purposes for which the capital stock and bonds herein authorized to be issued are to be used are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered as follows:

I.

Western Pacific Railway Company is hereby authorized to sell and convey to The Western Pacific Railroad Company its entire property, more particularly described in Exhibit "A" which is attached to this order and made a part thereof; provided, that within thirty days from the date of this first supplemental order, The Western Pacific Railroad Company shall have filed herein a stipulation, in form satisfactory to the Railroad Commission, duly authorized by its board of directors, agreeing for The Western Pacific Railroad Company, its successors and assigns, that they will never claim before the Railroad Commission or any other public authority, in any proceeding of any character, any value for the franchises and permits in the state of California herein authorized to be conveyed in excess of the amount paid therefor by their original grantee in each case, which stipulation shall refer by number of ordinance or resolution and date to each such franchise or

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permit and shall state the sum paid in each instance by the original grantee.

II.

The Western Pacific Railroad Company is hereby authorized to issue 475,000 shares of its common capital stock of the par value of $47,500,000.00 and 275,000 shares of its noncumulative 6 per cent preferred capital stock of the par value of $27,500,000.00, and $20,000,000.00, face value, of its first mortgage gold bonds, to mature on March 1, 1946, and to bear interest at the rate of 5 per cent per annum, payable on the first days of March and September of each year, on the following conditions and not otherwise, to wit:

1. The Western Pacific Railroad Company is hereby authorized to issue thirteen shares of its common capital stock, of the par value of $100.00 each, to its thirteen directors, one share to each director, upon the payment for said stock, in cash, at par, and shall apply the proceeds from the sale of said capital stock to the construction of extensions and feeders.

2. The Western Pacific Railroad Company is hereby authorized to issue 474,987 shares of its common capital stock, of the par value of $47,498,700.00 and 275,000 shares of its noncumulative 6 per cent preferred stock, of the par value of $27,500,000.00, to The Western Pacific Railroad Corporation, the holding company, in total payment, with the exception of a sum not to exceed $2,000,000.00, in cash, hereafter referred to, for the entire property of Western Pacific Railway Company, more particularly described in Exhibit "A," hereto attached; provided, that the par value of said capital stock shall never be claimed before the Railroad Commission or any other public authority as representing for rate making or any other purpose the present fair value of the propetry herein authorized to be conveyed.

3. The Western Pacific Railroad Company is hereby authorized to issue its first mortgage gold bonds of the face value of $20,000,000.00, to be secured by the deed of trust or mortgage hereinafter referred to, on the following conditions and not otherwise:

(*a*) Said bonds shall be sold so as to net The Western Pacific Railroad Company not less than 90 per cent of their face value, plus accrued interest.

(*b*) The proceeds from the sale of said bonds shall be used for the following purposes:

(1) To pay the distributive shares of nonassenting bondholders, underwriting commission, expenses of foreclosure and reorganization, including court costs, compensation and allowances of the receivers and their counsel, the mortgage trustee and its counsel, taxes on the creation and issue of new securities, compensation and expenses of

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the protective and reorganization committees, their depositaries and counsel, fees of engineering, accounting and other experts, engraving, printing and miscellaneous requirements, not to exceed the sum of $2,000,000.00.

(2) When detailed statements of the purposes for which the following expenditures are to be incurred shall have been filed by The Western Pacific Railroad Company, the proceeds from the sale of said bonds may be used, in general, for the following purposes:

(*a*) For betterments to the existing property of Western Pacific Railway Company, not to exceed the sum of	$2,597,750 00
(*b*) For the acquisition of new passenger and freight equipment, not to exceed the sum of	3,514,000 00
(*c*) For the acquisition by purchase, construction or otherwise of extensions and feeders, including payment of interest during construction, the acquisition of additional new property, the payment of receivers' car trust obligations, the provision of working capital for The Western Pacific Railroad Company, and the possible protection of claims against The Denver and Rio Grande Railroad Company, not to exceed the sum of	$10,506,250 00

4. The Western Pacific Railroad Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the capital stock and bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission, stating the sale or sales of said bonds and capital stock during the previous month, the terms and conditions of sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority hereby given to issue capital stock and bonds shall apply only to capital stock and bonds issued by The Western Pacific Railroad Company on or before July 1, 1917.

6. The authority hereby given to issue bonds shall not become effective until The Western Pacific Railroad Company has paid the fee specified in the Public Utilities Act.

III.

The Western Pacific Railroad Company is hereby authorized to execute its deed of trust or mortgage to Federal Trust Company and Henry E. Cooper, trustees, to be dated June 26, 1916, and to secure the issue of a maximum face value of first mortgage gold bonds in the amount of $50,000,000.00, to mature March 1, 1946, of which bonds the first $20,000,000.00 principal amount are to bear interest at the rate of 5 per cent per annum, payable on the first days of March and September, and to be redeemable at the face amount thereof and accrued

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interest thereon, and the other bonds are to bear interest at such rate or rates, not exceeding 6 per cent per annum, payable on such semiannual dates and to be redeemable at such price or prices as shall be determined by the board of directors of the company at the time of the issue thereof, subject to the approval of the Railroad Commission, said deed of trust or mortgage to be in substantially the form attached to the supplemental petition herein and marked "Supplemental Exhibit No. 3"; provided that the approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only, and is an approval in so far as the Railroad Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to such legal requirements to which said mortgage or deed of trust may be subjected.

Dated at San Francisco, California, this 12th day of July, 1916.

EXHIBIT "A."

(1) Western Pacific Railway Company's main line of railroad from San Francisco, California, to Salt Lake City, Utah, commencing at the city and county of San Francisco, running thence in and through the said city and county of San Francisco, and along, over and across the streets, alleys and squares thereof; thence by ferry and barge system to the city of Oakland, Alameda County, California; thence in and through said city of Oakland, and along, over and across the streets, alleys and squares thereof; thence southeasterly and easterly to a point on the boundary line between the said county of Alameda and the county of San Joaquin, state of California; thence in a general easterly, northeasterly and northerly direction to the city of Stockton, said county of San Joaquin; thence in a general northwesterly and northerly direction to the city of Sacramento, county of Sacramento, state of California; thence in and through said city of Sacramento, and along, over and across the streets, alleys and squares thereof; thence in a general northerly direction to the city of Marysville, county of Yuba, state of California; thence in a general northerly direction to a point at or near the town (now city) of Oroville, county of Butte, state of California; thence northerly and northeasterly along the north fork of the Feather River, easterly and northeasterly along the east branch of the north fork of Feather River, southerly and southeasterly along Spanish Creek and Spring Garden Creek, southeasterly and northeasterly along the middle fork of the Feather River to a point in Sierra Valley, county of Plumas, state of California; thence easterly across Sierra Valley and through Beckwith Pass to a point on the boundary line between the states of California and Nevada; thence in a general easterly direction across the state of Nevada to a point on the boundary line between the states of Nevada and Utah; thence in a general easterly direction to a point in Salt Lake City, Salt Lake County, said state of Utah, including that certain line of railroad formerly owned by the Alameda and San Joaquin Railroad Company and now owned by the Western Pacific Railway Company, extending from the city of Stockton, county of San Joaquin, state of California, to Tesla, Alameda County, California, a distance of about 36.6 miles, together with all the other property and franchises acquired by the Western Pacific Railway Company from said last named company.

Also all the railroads, terminals, rights of way, franchises and other property heretofore acquired by Western Pacific Railway Company from the San Francisco Terminal Railway and Ferry Company, the Sacramento and Oakland Railway Company and the Stockton and Beckwith Pass Railway Company.

(2) All other lines of railroad wherever situated whether owned by Western Pacific Railway Company at the time of the execution and delivery of its first mortgage or thereafter constructed or acquired whether by the railway or the receivers

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of its property, and owned by it, including all branches, extensions, terminals, terminal property and interest in terminals, union depots or stations, and all way-grounds, rights of way, depot grounds, roadbeds, superstructures, rails, tracks, side tracks, sidings, switches, and turnouts, bridges, viaducts, culverts, embankments, lands, yards, buildings, offices, depots, stations, warehouses, car houses, engine houses, freight houses, coal houses, wood houses, machine shops and other shops, turntables, water stations, water tanks, fences, telegraph lines, elevators, structures, erections and fixtures, and all wharves, piers, docks, ferries, boats, steamers, barges, transports, tugs and transfer and ferryboats.

(3) All the right, title and interest of Western Pacific Railway Company in and to any and all parcels of real property wherever situated, either owned by it or purchased or acquired by the receivers of its property, or in which it has the sole beneficial interest, and which have been acquired from time to time, although such parcels may be detached from and do not form an integral part of the railway's line of railway.

(4) All locomotives, engines, cars and other rolling stock, steam or electrical equipment, machinery, instruments, tools, implements, materials, supplies, furniture, and other chattels of Western Pacific Railway Company, wheresoever situated, whether acquired by the railway or by the receivers of its property.

(5) All the following described shares of stock, which said stock, with the exception of stock in Salt Lake City Union Depot and Railroad Company, are deposited and pledged with and are held by The Equitable Company as trustee of the first mortgage of Western Pacific Railway Company, namely:

$400,500.00 par value of stock of Standard Realty and Development Company.
$2,500,000.00 par value of stock of San Francisco Terminal Railway and Ferry Company.
$1,000,000.00 par value of stock of Stockton and Beckwith Pass Railway Company.
$99,900.00 par value of stock of Salt Lake City Union Depot and Railroad Company.

(6) All cash in the possession of the receivers of the property of Western Pacific Railway Company or to which they are entitled, all sums of money and all accounts of every kind due to the receivers, all estates, interests and rights under leases, trackage, terminal, crossing, operating and other executory contracts and agreements to which the railway or the receivers may be parties.

(7) Western Pacific Railway Company's rights and interests in and under the following agreements:

(*a*) An agreement dated June 23, 1905, between Western Pacific Railway Company, The Rio Grande Western Railway Company (now consolidated into The Denver and Rio Grande Railroad Company) and the Bowling Green Trust Company, as trustee under the first mortgage of the railway.

(*b*) Agreement dated June 23, 1905, between Western Pacific Railway Company, The Denver and Rio Grande Western Railway Company (now consolidated into The Denver and Rio Grande Railroad Company), and the Bowling Green Trust Company, as trustee under the first mortgage of the railway.

(*c*) An agreement dated June 23, 1905, between The Missouri Pacific Railway Company and The Denver and Rio Grande Railroad Company.

(*d*) All other agreements, leases and traffic contracts to which Western Pacific Railway Company is a party or in which the railway has an interest.

(8) All other property of every kind and description owned by Western Pacific Railway Company or acquired by the railway or by the receivers of its property; also any and all corporate and other rights, powers, privileges and franchises, easements, tenements, hereditaments and appurtenances, reversions and remainders, which the railway held at the time of the execution and delivery of its first mortgage, or which it or the receivers have subsequently acquired and now possess or exercise, and any and all rents, issues, profits, tolls and other income of said lines of railroad, extensions and branches, or any part thereof, and all the estate, right, title and interest, property, possession, claim and demand whatsoever, as well at law as in

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equity, of the said railway of, in and to the said lines of railroad, terminals and other property, and any and every part thereof, with all of the appurtenances.

(9) Excepting out of and reserving from the property above described so much thereof, if any, as shall heretofore have been conveyed by Western Pacific Railway Company and released from the lien of the first mortgage by the trustee thereunder and released from the second mortgage by the trustee thereunder.

(10) Excepting also out of and reserving from the property above described any and all trackage and operating rights now existing in the Boca and Loyalton Railroad Company, Chester L. Hovey, as receiver thereof, and the Mercantile Trust Company of San Francisco, as trustee under the first mortgage of the Boca and Loyalton Railroad Company, over a certain portion of the track approximately three and three-fourths miles in length.

Subject to all lawful obligations against said property.

Decision No. 3506, grade crossing; not printed. See end of volume.

DECISION NO. 3507.

IN THE MATTER OF THE APPLICATION OF WEST RIVERSIDE CANAL COMPANY TO ISSUE STOCK TO ITS DIRECTORS.

Application No. 2399.

Decided July 13, 1916.

Applicant authorized to issue seven shares of stock of the par value of $50.00 per share, such stock to be issued at its full face value for the purpose of qualifying directors.

C. L. McFarland, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application of West Riverside Canal Company of Riverside, Riverside County, for authority to issue seven shares of its capital stock of the par value of $50.00 per share, for the purpose of qualifying directors.

Applicant is a recently incorporated company formed for the purpose of acquiring and operating an irrigation canal in San Bernardino and Riverside counties, generally known as North Riverside and Jurupa Canal. This canal is approximately 14 miles in length and serves approximately 7,000 acres of land in what is known as West Riverside.

Applicant's authorized capitalization is $100,000.00, divided into 2,000 shares of the par value of $50.00 per share. No stock or bonds have been issued to date.

As heretofore stated the purpose of this application is to secure the Commission's approval of the issue of seven shares of stock for the purpose of qualifying directors.

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From the evidence presented at the hearing, I am of the opinion that this application should be granted and accordingly submit the following form of order:

ORDER.

West Riverside Canal Company having applied to this Commission for authority to issue seven shares of its capital stock for the purpose of qualifying directors; and a hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted, and that the purposes for which it is proposed to issue said stock are not reasonably chargeable in whole or in part to operating expenses or to income,

It is hereby ordered that the West Riverside Canal Company be and it is hereby authorized to issue seven shares of its capital stock of the par value of $50.00 per share, for the purpose of qualifying directors.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The stock herein authorized to be issued shall be issued at not less than its par value of $50.00 per share.

(2) The proceeds from the stock herein authorized to be issued shall be used by the applicant for the purpose of defraying such organization expenses as are properly chargeable to capital account.

(3) Applicant shall keep a true and accurate account of the issue of stock herein authorized to be issued and shall report the facts of such issue to this Commission in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(4) The authority herein granted shall apply only to such stock as shall have been issued on or before September 30, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 13th day of July, 1916.

DECISION NO. 3508.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO AND SOUTHEASTERN RAILROAD COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF A PROMISSORY NOTE.

Application No. 2339.

Decided July 13, 1916.

Applicant authorized to issue a one-day promissory note of the face value of $10,000.00, bearing interest at 6 per cent, for the purposes of renewing a note of a like face value bearing interest at 5 per cent.

Read G. Dilworth, for Applicant.

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REPORT OF THE COMMISSION.

This is an application by San Diego and Southeastern Railway Company, a California corporation, engaged in the business of operating a commercial railroad in San Diego County, for authority to issue a promissory note for $10,000.00, bearing interest at the rate of 6 per cent per annum and payable to J. D. and A. B. Spreckels Security Company, for the purpose of refunding its one-day promissory note dated July 12, 1912, for the same amount to J. D. Spreckels and Bros. Company, which note bears interest at the rate of 5 per cent per annum.

From the evidence introduced at the public hearing, which was held on July 7, 1916, it appears that the proceeds of the existing note were used by applicant for the acquisition of property and for the construction, extension and improvement of its facilities and service; it also appears that said note has been endorsed by the original payee to J. D. and A. B. Spreckels Security Company, a corporation, and that said corporation is willing to accept a new note bearing 6 per cent interest in place of said existing note which is now almost four years overdue; it further appears from the evidence that the prevailing rate of interest in San Diego is not less than 6 per cent per annum. The application should, in our opinion, be granted.

ORDER.

San Diego and Southeastern Railway Company having applied to the Railroad Commission for an order authorizing the issue of a promissory note for $10,000.00, for the purpose of refunding a promissory note of a similar amount bearing the date of July 12, 1912, and a public hearing having been held on said application and this Commission finding that the purposes for which said existing note or the proceeds thereof were used were not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted,

It is hereby ordered that San Diego and Southeastern Railway Company be and the same is hereby authorized to issue its one-day promissory note for $10,000.00, bearing interest at a rate not in excess of 6 per cent per annum, and payable to J. D. and A. B. Spreckels Security Company, a corporation.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) San Diego and Southeastern Railway Company shall issue said note so as to net not less than the face value thereof.

(2) Said note shall be issued for the purpose of refunding applicant's one-day promissory note for like amount bearing the date of July 12, 1912, and payable to J. D. Spreckels and Bros. Company, and shall not be issued until said outstanding note shall have been returned to applicant and canceled.

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(3) The authority herein granted to issue said note is conditioned upon said note being issued not later than September 30, 1916.

(4) San Diego and Southeastern Railway Company shall report to the Railroad Commission within ten days after the issue of the note hereby authorized, the fact and the date of the issue, the face value of said note, the rate of interest and the application of the proceeds, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

(5) This order shall not become effective until applicant shall have paid the fee specified in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 13th day of July, 1916.

DECISION NO. 3509.

RICE ASSOCIATION OF CALIFORNIA,
PACIFIC RICE GROWERS ASSOCIATION,
vs.
SOUTHERN PACIFIC COMPANY,
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 923.

Decided July 13, 1916.

Chapman & Thompson, for Complainants.

George D. Squires, for Southern Pacific Company.

G. H. Baker, for The Atchison, Topeka and Santa Fe Railway Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

ORDER ON PETITION FOR REHEARING.

The Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company having on July 1, 1916, and July 5, 1916, respectively, filed with this Commission an application for a rehearing in the above entitled case, and the Commission being of the opinion that no good cause has been shown why a rehearing should be had,

It is hereby ordered that said applications for rehearing be and the same are hereby denied.

It is further ordered that the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company, or their authorized agent, publish and file with this Commission on or before twenty days from the date of service of this order, local and joint rates on paddy rice in carloads heretofore found to be just and reasonable rates in this Commission's order (Decision No. 3424), rendered June 16, 1916.

Dated at San Francisco, California, this 13th day of July, 1916.

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DECISION No. 3510.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD, OF FRANK V. SPOONER, ROBERT R. PARDOW AND JOHN C. RUED, AND OF HENRY E. COOPER, A. M. HUNT, JAMES D. PHELAN, GEORGE WHITTELL, DAVID R. VORGAN, I. DEBRUYN, C. LEDYARD BLAIR, FREDERICK H. ECKER, STARR J. MURPHY, ROBERT W. MARTIN, WILLIAM SALOMON AND RICHARD B. YOUNG, AS THE REORGANIZATION COMMITTEE CONSTITUTED BY THE PLAN AND AGREEMENT OF REORGANIZATION OF WESTERN PACIFIC RAILWAY COMPANY FOR AUTHORIZATION OF PROCEEDINGS PURSUANT TO SAID PLAN AND AGREEMENT OF REORGANIZATION.

Application No. 2351.

Decided July 14, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

A doubt having arisen as to the extent to which the property to be conveyed to The Western Pacific Railroad Company in exchange for securities herein authorized to be issued shall include cash in the hands of the receivers of the property of Western Pacific Railroad Company,

It is hereby ordered as follows: Clause 2 of paragraph II of the first supplemental order entered herein July 12, 1916, is hereby amended to read as follows:

2. The Western Pacific Railroad Company is hereby authorized to issue 474,987 shares of its common capital stock, of the par value of $47,498,700.00, and 275,000 shares of its noncumulative 6 per cent preferred stock, of the par value of $27,500,000.00, to The Western Pacific Railroad Corporation, the holding company, in total payment, with the exception of a sum not to exceed $2,000,000.00, in cash, hereinafter referred to, for the entire property of Western Pacific Railway Company, more particularly described in Exhibit "A" hereto attached, including such portion of cash in the hands of the receivers as is not necessarily applied to the payment of expenses of receivership and reorganization; provided that the par value of said capital stock shall never be claimed before the Railroad Commission or any other public authority as representing for rate making purposes or any other purpose the present fair value of the property herein authorized to be conveyed.

In all other respects said first supplemental order shall remain in full force and effect.

Dated at San Francisco, California, this 14th day of July, 1916.

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DECISION No. 3511.

IN THE MATTER OF THE APPLICATION OF TIDEWATER SOUTHERN RAILWAY COMPANY FOR PERMISSION TO ISSUE TWENTY THOUSAND DOLLARS PAR VALUE OF ITS BONDS TO GUARANTEE THE CONSTRUCTION OF AN INTERLOCKING PLANT, IN ACCORDANCE WITH DECISION NO. 3499 OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Application No. 2420.

Decided July 14, 1916.

Applicant authorized to issue $20,000.00 face value of its bonds, to be pledged as security for a surety bond in the sum of $10,000.00, to be delivered to Southern Pacific Company, to insure the construction of a standard interlocking plant at a crossing of the two roads named.

Byron A. Bearce, for Applicant.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This is an application of Tidewater Southern Railway Company for authority to issue twenty thousand ($20,000.00) dollars face value of its first mortgage 5 per cent bonds, and to deposit said bonds with the New Amsterdam Casualty Company of New York. The applicant has arranged with said casualty company, in return for the deposit of said bonds, for a surety bond in the sum of ten thousand ($10,000.00) dollars. This surety bond is to be given to the Southern Pacific Company to insure that the applicant will, within five months, construct a standard interlocking plant or device at a point of crossing of the line of the applicant with the tracks of the Southern Pacific Company one and one-half (1½) miles south of Modesto.

Mr. Bearce testified that Tidewater Southern Railway Company was extending its line of railway to Turlock, and that it would proceed promptly to install the interlocking plant. The construction of this plant has heretofore been ordered by this Commission in Decision No. 3499, upon Application No. 2340, to which reference is hereby made.

I believe the applicant may be permitted to issue its bonds for the purpose stated, on condition, however, that the applicant should bind itself, by stipulation to be filed with this Commission, to construct said interlocking plant on or before five months from the date of this Commission's order contained in Decision No. 3499.

Accordingly, I recommend the following form of order:

ORDER.

Tidewater Southern Railway Company having applied to this Commission for authority to issue twenty thousand ($20,000.00) dollars face value of its first mortgage 5 per cent bonds,

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And a hearing having been held and it appearing that the purposes for which it is proposed to issue said bonds are not reasonably chargeable to operating expense or to income,

It is hereby ordered that Tidewater Southern Railway Company be granted authority and it is hereby granted authority to issue twenty thousand ($20,000.00) dollars face value of its first mortgage 5 per cent bonds; said bonds to be deposited with the New Amsterdam Casualty Company of New York in return for a surety bond in the sum of ten thousand ($10,000.00) dollars, said surety bond to be given to the Southern Pacific Company to insure the construction by the applicant of a standard interlocking plant or device at a crossing between the tracks of applicant and said Southern Pacific Company one and one-half (1½) miles south of Modesto.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. After the purposes of the surety bond herein referred to have been satisfied, said twenty thousand ($20,000.00) dollars face value of applicant's bonds shall be returned to its treasury and not thereafter issued without the authority of this Commission.

2. The applicant shall bind itself by stipulation to be filed with this Commission within two (2) days to construct said interlocking plant on or before five (5) months from the date of this Commission's order contained in Decision No. 3499.

3. The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act, as amended.

4. The applicant shall, on or before the twenty-fifth day of each month, report to the Commission the number of bonds issued under this order.

5. The authority herein granted to issue bonds shall apply only to such bonds as shall have been issued on or before August 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 14th day of July, 1916.

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DECISION No. 3512.

IN THE MATTER OF THE APPLICATION OF FRESNO INTERURBAN RAILWAY COMPANY FOR AUTHORITY TO ISSUE STOCKS AND BONDS.

Application No. 1084.

Decided July 14, 1916.

Applicant granted permission to issue $149,700.00 face value of bonds for the purpose of covering cost of construction of its line of railway from Fresno to Sanger; such bonds to be issued only upon condition that bonds of a like face value heretofore authorized for the same purpose shall be called in and canceled.

Petition to issue bonds to cover an operating deficit of $10,396.27 denied at the present time, and applicant is authorized to issue a promissory note covering the amount instead; $8,100.00 par value of preferred stock also authorized to be delivered to contractors for work done upon applicant's line.

C. O. Whittemore, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SIXTH SUPPLEMENTAL OPINION.

Fresno Interurban Railway Company has heretofore undertaken the construction of an electric line of railway between Fresno and Clovis, Fresno County, a distance of approximately nine miles. The applicant has now altered its plans and proposes to construct from Fresno to Sanger Road. It has already built over ten miles of its main line, and has partly completed four and one-half miles additional track.

Under orders of this Commission the applicant has heretofore issued to the contractors who are building the railway, $149,700.00 of its first mortgage 6 per cent ten-year bonds, and 269 shares of its stock of the par value of $100.00 per share. It has heretofore issued 100 shares for organization purposes. The applicant proposes to revise its financial plan and to issue first mortgage 6 per cent twenty-five year bonds in lieu of the bonds now outstanding.

The present application as amended under date of July 5, 1916, is for authority to issue $153,500.00 par value of the proposed 6 per cent twenty-five year bonds, and to issue 231 additional shares of stock of the par value of $100.00 per share.

The applicant's line of railway is being constructed under contract by Mahoney Brothers, which contract provides for certain construction to be done for a certain fixed sum to be paid to the contractor, partly in bonds and partly in stock. This contract, however, was not adhered to either by the railway company or by the contractor. The present application provides for a settlement between the railway company and the contractor as of March 1, 1916.

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After revision by the engineering and auditing departments of this Commission of the figures submitted by the applicant, it appears that the reasonable cost of applicant's line up to March 1, 1916, for work actually performed by the contractor, including the contractor's profit of 12½ per cent, was $120,821.21.

In addition to this it appears that the applicant is indebted to the contractor for moneys advanced for the purposes of the railway, in the sum of $37,055.28. This brings the total apparent cost of the railway project as of March 1, 1916, to $157,876.29.

Included in the sum due the contractor is $10,396.27, representing an operating deficit, which was advanced by the contractor.

I believe that for the purpose of the issuance of securities, this sum of $10,396.27 should not be capitalized, and it may, therefore, be more properly represented by promissory notes. Thereafter, if it shall appear to have been a proper development expense, it may be either amortized or, if a proper showing be made, capitalized.

The applicant has accepted the revised figures of the engineering and auditing departments of this Commission and there remains, therefore, merely a proper division between the amount of stocks and bonds which the Commission may determine to authorize at this time.

The applicant sold its ten-year 6 per cent bonds at 90, or on a basis of approximately 7½ per cent. Its new issue it proposes to sell at 80, or on a basis of approximately 7.8 per cent.

It appears that while this settlement is as of March 1, 1916, some additional work has been done on the railway which will come under the lien of the bonds herein authorized to be issued.

In view of this I believe the applicant may be authorized to issue $149,700.00 of first mortgage 6 per cent twenty-five year bonds to refund the outstanding issue of $149,700.00 of first mortgage 6 per cent ten year bonds. It will, therefore, require the issue of only 81 additional shares of stock to complete the proposed financial plan. The result of the suggestions herein made will give the applicant an outstanding issue of $149,700.00 of first mortgage 6 per cent twenty-five year bonds, an issue of 450 shares of stock of the par value of $100.00 per share, and a note in the sum of $10,396.27.

Applicant proposes to execute a mortgage and deed of trust to Mercantile Trust Company of San Francisco to secure its issue of bonds. This mortgage and deed of trust will provide for the issue of $1,200,000.00 of bonds, payable on January 1, 1942. The bonds will carry 6 per cent interest and will be callable at 102½. Certain adjustments are to be made in this mortgage and deed of trust.

The applicant has plans for the extension of its railway, and as these plans progress, may be given additional authorization to issue stocks and bonds to cover the cost of its enterprise.

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In view of the foregoing, I submit the following form of order:

SIXTH SUPPLEMENTAL ORDER.

Fresno Interurban Railway Company having applied to this Commission for authority to issue stocks and bonds as set forth in the foregoing opinion, and a hearing having been held and it appearing to the Commission that the stocks and bonds herein authorized to be issued are not in whole or in part reasonably chargeable to operating expenses or to income, and that the note or notes herein authorized to be issued may be later found to be chargeable to income,

It is hereby ordered that Fresno Interurban Railway Company be granted authority and it is hereby granted authority to issue $149,700.00 of first mortgage 6 per cent twenty-five year bonds under a trust indenture between Fresno Interurban Railway Company and Mercantile Trust Company of San Francisco, when the same shall have been approved by this Commission.

It is further ordered that Fresno Interurban Railway Company be granted authority and it is hereby granted authority to issue its note or notes in a sum not to exceed $10,396.27.

It is further ordered that Fresno Interurban Railway Company be granted authority and it is hereby granted authority to issue 81 shares of its capital stock of the par value of $100.00 per share.

The authority herein given is given upon the following conditions and not otherwise.

(1) The bonds hereby authorized to be issued shall be issued in exchange for applicant's outstanding issue of $149,700.00 of first mortgage 6 per cent ten-year bonds, and the bonds hereby authorized to be issued shall only be issued upon the surrender and cancellation of all of the $149,700.00 of first mortgage 6 per cent ten-year bonds now outstanding.

(2) The note or notes herein authorized to be issued shall be for a term not to exceed three years, at a rate of interest not to exceed 8 per cent, and shall be issued to Mahoney Brothers in payment for advances made to applicant by said Mahoney Brothers.

(3) The 81 shares of stock herein authorized to be issued may be issued by the applicant to Mahoney Brothers in further payment of work done by said Mahoney Brothers on applicant's line of railway, or for advances made by Mahoney Brothers up to March 1, 1916.

(4) The bonds, note or notes, and stock herein authorized to be issued shall be in full of account of applicant's indebtedness to Mahoney Brothers or other parties for the cost of construction in connection with applicant's railway, up to March 1, 1916.

(5) Fresno Interurban Railway Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stocks and bonds hereby authorized

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to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said stocks and bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(6) The authority herein granted is conditioned upon the payment by the applicant of the fee prescribed under the Public Utilities Act.

(7) The authority herein granted shall apply to such stocks and bonds as shall have been issued on or before December 31, 1916.

The foregoing sixth supplemental opinion and sixth supplemental order are hereby approved and ordered filed as the sixth supplemental opinion and sixth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of July, 1916.

DECISION NO. 3513.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED SIXTY-SIX THOUSAND DOLLARS, AND NOTES OF THE FACE VALUE OF THIRTY-THREE THOUSAND DOLLARS.

Application No. 1731.

Decided July 11, 1916.

REPORT OF THE COMMISSION.

THIRTEENTH SUPPLEMENTAL ORDER.

Whereas this Commission, by Decision No. 2726, dated August 31, 1915, authorized the delivery to Western States Gas and Electric Company of $182,000.00 face value of bonds, the issue of which was authorized by Decision No. 2550, dated June 30, 1915, provided that Western States Gas and Electric Company deposit with the trustee, Girard Trust Company, the sum of $182,000.00 in cash, said $182,000.00 so deposited with the trustee to be withdrawn by the applicant herein from time to time in accordance with the order of this Commission permitting the withdrawal; and

Whereas applicant has heretofore reported the cost of extensions, additions and betterments at $188,505.80; and

Whereas applicant reports that under its deed of trust it can issue bonds only to pay for 75 per cent of the cost of extensions, additions and betterments; and

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Whereas applicant reports in a statement filed July 6, 1916, that it has expended from May 1, 1916, to May 31, 1916, both dates inclusive, the sum of $14,008.50 for extensions, additions and betterments to its plant; and

Whereas applicant asks authority to withdraw from the aforesaid fund remaining on deposit with the trustee the sum of $10,506.38, representing 75 per cent of the cost of extensions, additions and betterments installed during the month of May, 1916; and good cause appearing,

It is hereby ordered that Western States Gas and Electric Company be given authority and it is hereby given authority to withdraw from Girard Trust Company the sum of $10,506.38, being a portion of the amount deposited with the trustee, in accordance with Decision No. 2726, dated August 31, 1915, of the Railroad Commission of the state of California.

It is hereby further ordered that Decision No. 2550, dated June 30, 1915, as amended by the supplemental orders thereto, shall remain in full force and effect, except as it may be modified by this thirteenth supplemental order.

Dated at San Francisco, California, this 14th day of July, 1916.

DECISION NO. 3514.

IN THE MATTER OF THE APPLICATION OF MARIN COUNTY ELECTRIC RAILWAYS FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 1360.

Decided July 15, 1916.

Applicant, on abandonment of its enterprise, petitions for permission to expend the sum of $265.65 of a total of $375.00 obtained through stock subscriptions, for printing, cost of franchise and attorney's fee, and return the balance to subscribers. Petition denied and entire amount directed returned to subscribers.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SECOND SUPPLEMENTAL ORDER.

Whereas the applicant has reported to this Commission that it has realized $375.00 from the sale of stock as authorized by this Commission in Decision No. 2495 (Vol. 7, Opinions and Orders of the Railroad Commission of California, page 178); and

Whereas said order provided that said fund should be held in trust, thereafter, if not expended upon the proposed railway project, to be

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returned to the stock subscribers, less any expenditures which the Commission may in the meantime have authorized; and

Whereas the applicant has now applied to this Commission for authority to expend from said sum of $375.00 the following amounts:

Printing bill	$6 65
Cost of franchise	234 00
Attorney's fee	25 00
Total	$265 65

and

Whereas the applicant has requested authority to distribute the balance of $109.35 to stock subscribers; and

Whereas this Commission has heretofore, in Decision No. 1457, upon Application No. 947 (Vol. 4, Opinions and Orders of the Railroad Commission of California, page 840), expressed the view that said expenditures were properly chargeable against the projectors of this enterprise if not successfully launched or carried forward; and

Whereas it appears to this Commission that such costs as have been incurred as above stated, in the sum of $265.65, should be borne by the projectors of this enterprise and not by the stock subscribers,

It is hereby ordered that said sum of $375.00 held in trust for applicant's stock subscribers should be ratably returned to stock subscribers in full amount of their payments under said subscriptions.

The foregoing second supplemental order is hereby approved and ordered filed as the second supplemental order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 15th day of July, 1916.

Decision No. 3515.

IN THE MATTER OF THE APPLICATION OF POMONA VALLEY TELEPHONE AND TELEGRAPH UNION FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF ONE HUNDRED THOUSAND DOLLARS.

Application No. 400.

Decided July 15, 1916.

Report of the Commission.

SECOND SUPPLEMENTAL ORDER.

Whereas this Commission in its first supplemental order in the application herein (Decision No. 3319, dated May 10, 1916) authorized Pomona Valley Telephone and Telegraph Union to apply to extensions and improvements the sum of $26,425.88, being a portion of the

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proceeds received from the sale of $60,000.00 face value of 6 per cent bonds; and

Whereas Pomona Valley Telephone and Telegraph Union has now represented to the Commission that said sum will not be immediately needed for permanent improvements, and has requested that it be granted authority to use said moneys temporarily as working capital, pending their permanent investment; and good cause appearing,

It is hereby ordered that Pomona Valley Telephone and Telegraph Union be and it is hereby authorized to invest as working capital all or any part of the sum of $26,425.88 received from the sale of 6 per cent bonds, pending its permanent investment in extensions and improvements, in accordance with the terms of this Commission's Decision No. 3319, dated May 10, 1916.

The order herein made is granted upon the following conditions and not otherwise:

(1) On or before August 1, 1917, unless otherwise authorized by this Commission, applicant shall convert said working capital unimpaired into fixed capital in the form of additions and betterments to its properties as prescribed by Decision No. 3319, dated May 10, 1916.

(2) Except as modified by the order herein this Commission's Decision No. 494, and such orders as have been issued supplemental thereto, shall remain in full force and effect.

Dated at San Francisco, California, this 15th day of July, 1916.

Decision No. 3516, grade crossing; not printed. See end of volume.

Decision No. 3517, cancelled, not used.

DECISION No. 3518.

IN THE MATTER OF THE APPLICATION OF WILLOWBROOK WATER COMPANY FOR PERMISSION TO ISSUE TEN-YEAR 7 PER CENT BONDS IN THE AMOUNT OF FIVE THOUSAND DOLLARS SECURED BY MORTGAGE UPON PROPERTY BELONGING TO SAID CORPORATION.

Application No. 2355.

Decided July 15, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission on June 29, 1916, Decision No. 3470, authorized the applicant herein to issue twenty promissory notes for $250.00 each, said notes to bear interest at the rate of 7 per cent per annum, to be payable serially one each six months, and to be secured

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by a deed of trust upon all of applicant's property, upon the condition that said deed of trust should first be approved by the Commission in writing; and

Whereas applicant on July 10, 1916, filed with the Commission for its approval a copy of deed of trust to Hellman Commercial Trust and Savings Bank and Fred Hoffman, securing an issue of twenty promissory notes of the face value of $250.00 each, bearing interest at 7 per cent per annum, payable serially one each six months, and providing for ninety days written notice to applicant before beginning any proceeding to advertise or sell applicant's property; and it appearing to this Commission that said deed of trust is in proper form and should be approved,

It is hereby ordered that Willowbrook Water Company be and it is hereby authorized to execute a mortgage upon its properties substantially in the form of a deed of trust submitted by applicant on July 10, 1916, and marked Exhibit "E."

The approval herein given of said mortgage is for the purpose of this proceeding only and an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

Dated at San Francisco, California, this 15th day of July, 1916.

DECISION No. 3519.

IN THE MATTER OF THE APPLICATION OF HOLTON INTERURBAN RAILROAD COMPANY FOR PERMISSION TO LEASE TRACK OF SOUTHERN PACIFIC COMPANY FROM EL CENTRO TO SEELEY, IMPERIAL COUNTY, CALIFORNIA, A DISTANCE OF 8.74 MILES.

Application No. 199.

Decided July 15, 1916.

REPORT OF THE COMMISSION.

Applicant in the above entitled matter having on June 30, 1911, filed with the Commission an application covering this same matter, and having asked to withdraw this application,

It is hereby ordered that this application be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 15th day of July, 1916.

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DECISION No. 3520.

IN THE MATTER OF THE APPLICATION OF CHARLES I. D. LOOFF, FOR THE APPROVAL OF A SALE AND AWARD BY THE CITY COUNCIL OF THE CITY OF SANTA MONICA, OF A WHARF FRANCHISE IN SAID CITY OF SANTA MONICA TO SAID CHARLES I. D. LOOFF.

Application No. 2362.

Decided July 15, 1916.

Applicant granted a certificate permitting the exercise of rights obtained under a franchise authorizing the construction of a wharf at Santa Monica, provided applicant file a stipulation to the effect that no value other than the actual cost shall ever be claimed for such franchise.

Goudge, Robinson & Hughes, for Applicant.

REPORT OF THE COMMISSION.

Charles I. D. Looff applies to the Railroad Commission for approval of a wharf franchise granted to applicant by city of Santa Monica, Los Angeles County, pursuant to section 2906 of the Political Code.

The franchise is granted by the city of Santa Monica in Ordinance No. 22, commissioners series, adopted June 7, 1916. It grants to applicant the privilege and franchise to construct, and for twenty years to maintain and operate, a wharf for purposes of commerce and navigation, amusement and recreation; the city to receive after the first five years 2 per cent of the gross annual receipts. No intoxicating liquors are to be sold or given away on the wharf.

The wharf is to be supported by creosoted piling, so constructed as to support a load of 100 pounds per square foot, the structures thereon to conform to the building ordinance and regulations of the city and the laws of the state, the whole to be amply protected against fire.

The wharf is to front 267.7 feet on the shore line of Santa Monica Bay and extend 900 feet into the Pacific Ocean, and is to join the municipal pier on the southerly side. The 20 feet of the wharf next to the municipal pier and lying within the lines of Colorado street, prolonged, is to at once become the property of the city. It is expected that the wharf will be used principally for amusement and recreation purposes.

Permit from the federal government for the construction of a wharf of smaller size has been issued to a former owner of the shore frontage. Applicant expects to apply to the federal authorities for permit to construct the wharf hereinabove described.

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ORDER.

Charles I. D. Looff having applied to the Railroad Commission for approval of wharf franchise granted to applicant by city of Santa Monica, Los Angeles County, in Ordinance No. 22, commissioners series, adopted June 7, 1916, and a public hearing having been held thereon and the Commission being of the opinion that the application should be granted,

It is hereby ordered that said franchise will be approved, provided applicant file with the Railroad Commission within ten (10) days a stipulation that he, his heirs, successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights and privileges in excess of the actual cost to him of acquiring said rights and privileges, which said cost is to be stated in said stipulation; and provided he receive from the Commission a supplemental order declaring that such stipulation in form satisfactory to it has been filed with the Railroad Commission.

Dated at San Francisco, California, this 15th day of July, 1916.

DECISION NO. 3520½.

IN THE MATTER OF THE APPLICATION OF POSTAL TELEGRAPH CABLE COMPANY FOR EXTENSION OF TIME IN WHICH TO COMPLY WITH THE PROVISIONS OF STATE STATUTES, CHAPTERS 499 AND 600, RELATING TO WIRE CLEARANCES.

Application No. 2258.

Decided July 15, 1916.

REPORT OF THE COMMISSION.

ORDER EXTENDING TIME.

Good cause appearing,

It is hereby ordered that the time for compliance by Postal Telegraph-Cable Company with the provisions of chapter 499 of the Laws of 1911 and chapter 600 of the Laws of 1915 is hereby extended to and including September 8, 1916.

Dated at San Francisco, California, this 15th day of July, 1916.

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Decisions Nos. 3521 and 3522, grade crossings; not printed. See end of volume.

DECISION NO. 3523.

PHILIP C. P. KELLEY

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE PULLMAN COMPANY.

Case No. 933.

Decided July 17, 1916.

Investigation showing that the present lavatory space in Pullman cars operated over the Santa Fe Railway between Los Angeles and San Diego is inadequate and uncomfortable, defendants directed to operate over such line standard Pullman cars having a lavatory for men not less than 6 feet 8 inches by 9 feet 9 inches; such order to become effective thirty days from date.

ORDER.

Philip C. P. Kelley, in *propria persona*.

Platt Kent, for The Atchison, Topeka and Santa Fe Railway.

Sanborn & Rochl, for The Pullman Company.

REPORT OF THE COMMISSION.

This is a matter brought by formal complaint of Philip C. P. Kelley, alleging that the lavatory service on the Pullman sleeping cars operated by defendants between the cities of Los Angeles and San Diego is inadequate and insufficient, and requesting that the matter be investigated by the Commission at a public hearing, and that an order be made granting relief.

The defendants each filed separate answers denying the material allegations of the complaint. A public hearing was held at San Francisco on May 31, 1916, the matter was submitted and is now ready for decision.

The complainant, a traveling salesman, testified as to the inconvenience caused male passengers by reason of the small space comprising the portion of the car devoted to the men's lavatory. The Pullman cars regularly assigned on the night runs on the line of The Atchison, Topeka and Santa Fe Railway between Los Angeles and San Diego are of the type known as twelve-section, one drawing room and one compartment. Four cars of this type are assigned to this service, two each being operated on trains No. 78 and No. 79. The dimensions of the men's lavatory on this type of car are 6 feet 8 inches by 6 feet, a total area of forty square feet. Each lavatory contains three wash basins, a dental basin, and a small seat. Hooks are provided upon which the clothes of passengers can be hung, also a hook is provided for a razor strop. A swinging shelf or drop table has recently been

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installed to furnish additional space for the placing of travelers' grips or bags while using the lavatory facilities.

Witnesses for the defendant, The Pullman Company, testified that it was impossible to furnish a type of car having larger lavatory space in the portion assigned for the use of male passengers and provide the section, compartment and drawing room space demanded by their patrons, and that if larger lavatory space were to be provided another type of car would have to be placed in service and that the compartment space, for which there was considerable demand, could not be supplied. It was stated that the type of car to be furnished by the Pullman Company for service on the Los Angeles-San Diego line of The Atchison, Topeka and Santa Fe Railway Company was specified by the officials of the latter company and also that The Pullman Company was willing to furnish such types of standard cars as might be called for by The Atchison, Topeka and Santa Fe Railway Company. Testimony developed the fact that a considerable amount of the congestion and crowding of the men's lavatory was occasioned by the desire for use of these facilities by a number of male passengers at the same time; by the practice of many of the male passengers shaving, thereby requiring a longer period in which to complete their toilets than is necessary for male passengers who do not include shaving as a portion of their toilet; also the use of the men's lavatory as a smoking room. The Pullman Company, through the testimony of its superintendent, Mr. F. L. Wood, concedes the right of male passengers to use the lavatory for the purpose of shaving, which is also evidenced from the fact that a hook is provided in the men's lavatory upon which razor strops may be hung. Also through the testimony of Mr. William Lucas, one of The Pullman Company's service inspectors, it was conceded that a passenger desiring to smoke is entitled to use the men's lavatory for such purpose.

A rule of The Pullman Company permits their conductors to allow passengers to use the toilet facilities in a drawing room or compartment, provided the car is crowded and such rooms are unoccupied. This matter is one over which the Pullman conductor has jurisdiction and permits such use when in his judgment it is necessary. It was developed that in addition to the rule of The Pullman Company in some instances the use of the ladies' lavatory had also been permitted.

Notwithstanding the efforts of The Pullman Company to relieve the congestion by the application of their rules as above, it appears that congestion does exist and that delays are caused male passengers desiring to make use of the lavatory facilities.

It also appears that the space allotted for the men's lavatories in the Pullman cars operated on the line of The Atchison, Topeka and Santa Fe Railway Company betwen Los Angeles and San Diego is

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inadequate for the comfort and convenience of the male passengers, and that The Pullman Company has other standard types of cars which could be substituted for those against which complaint is made in this case. This Commission has record of a type of standard car having a men's lavatory 6 feet 8 inches by 9 feet 9 inches in size, or a floor space of sixty-five square feet, as against forty square feet as existing in the type of car against which this complaint is directed.

The agreement existing between The Pullman Company and The Atchison, Topeka and Santa Fe Railway Company, executed under date February 1, 1906, and at present in effect, governs the conditions under which the cars of The Pullman Company are operated on the lines of The Atchison, Topeka and Santa Fe Railway Company. Section 1 of this agreement reads in part as follows:

> "The Pullman Company shall, during the term hereinafter limited, carry on and conduct what is generally known as a sleeping-car business over the railroads now or hereafter included in the 'Atchison System' as hereinafter defined, and for that purpose shall furnish on the tracks of the Atchison system all standard sleeping cars, tourist sleeping cars and parlor cars, properly equipped and acceptable to the general manager of the railway company, necessary to meet the requirements of travel over said Atchison system."

Under the terms of the agreement the duty of specifying the class of Pullman equipment necessary to meet the requirements of travel rests with the general manager of The Atchison, Topeka and Santa Fe Railway Company.

ORDER.

Philip C. P. Kelley having made complaint that the men's lavatories in the Pullman sleeping cars operated over the line of The Atchison, Topeka and Santa Fe Railway Company between San Diego and Los Angeles are inadequate, and a public hearing having been held and the Commission being fully advised in the premises and finding as a fact that the space accorded to the men's lavatories in the type of Pullman sleeping cars operated betwen San Diego and Los Angeles is inadequate for the comfort and convenience of the traveling public,

It is hereby ordered that The Atchison, Topeka and Santa Fe Railway Company regularly operate on its line between San Diego and Los Angeles standard Pullman sleeping cars, each having a minimum space assigned for men's lavatory approximately six feet eight inches by nine feet nine inches (6′ 8″ x 9′ 9″) in size, and that this order be effective thirty (30) days after date of this order.

Dated at San Francisco, California, this 17th day of July, 1916.

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DECISION NO. 3524.

IN THE MATTER OF THE APPLICATION OF FRESNO INTERURBAN RAILWAY COMPANY FOR AN ORDER AUTHORIZING THE ISSUANCE OF STOCKS AND BONDS.

Application No. 1084.

Decided July 20, 1916.

REPORT OF THE COMMISSION.

SEVENTH SUPPLEMENTAL ORDER.

Whereas this Commission in its Decision No. 3512, dated July 14, 1916, authorized Fresno Interurban Railway Company to issue $149,700.00 face value of first mortgage 6 per cent twenty-five-year bonds under a trust indenture between Fresno Interurban Railway Company and Mercantile Trust Company of San Francisco, when the same shall have been approved; and

Whereas Fresno Interurban Railway Company has submitted for approval a copy of its proposed trust indenture, said trust indenture conveying to the trustee, Mercantile Trust Company of San Francisco, all of the property of the company now owned or hereafter acquired as security for the payment of $1,200,000.00 face value of first mortgage 6 per cent bonds, payable January 1, 1942; and

Whereas said trust indenture further provides that the bonds shall be certified by the trustee and delivered to the mortgagor, or, according to its order, together or in lots, upon the demand of the mortgagor; that beginning December 1, 1927, and annually thereafter, the company is to pay to the trustee for the purpose of a sinking fund to be used to redeem the bonds, an amount equal to 1 per cent of the face amount of the bonds outstanding; that bonds may be redeemed at par, plus a premium of 2½ per cent; that if the company fails to pay the interest or sinking fund installments within three months after due, the holders of one-third of the bonds outstanding may declare the principal due and payable, provided that such action may be reversed by a majority of the holders of the bonds outstanding; and good cause appearing,

It is hereby ordered that Fresno Interurban Railway Company be given authority and hereby is given authority to execute a mortgage and deed of trust in substantially the same form and tenor as the mortgage and deed of trust attached to the supplemental application filed July 5, 1916, marked Exhibit "B," provided that the approval herein given of said mortgage and deed of trust is for the purpose of this proceeding only, and an approval in so far as the Commission has jurisdiction under the terms of the Public Utilities Act, and is not

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intended as an approval of said mortgage and deed of trust as to such other legal requirements to which said mortgage and deed of trust may be subject, and provided further that the approval herein given of said mortgage and deed of trust shall not be construed as a waiver of the Commission's policy relating to the construction of applicant's line of railway through the issue of stocks and bonds.

Dated at San Francisco, California, this 20th day of July, 1916.

DECISION No. 3525.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED AND SIXTY-SIX THOUSAND DOLLARS, AND NOTES OF THE FACE VALUE OF THIRTY-THREE THOUSAND DOLLARS.

Application No. 1731.

Decided July 20, 1916.

REPORT OF THE COMMISSION.

FOURTEENTH SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 2726, dated August 31, 1915 (Vol. 7 of Opinions and Orders of the Railroad Commission, page 923), authorized the delivery to Western States Gas and Electric Company of $182,000.00 face value of bonds, the issue of which was authorized by Decision No. 2550, dated June 30, 1915 (Vol. 7 of Opinions and Orders of the Railroad Commission, page 485), provided that Western States Gas and Electric Company deposit with the trustee, Girard Trust Company, the sum of $182,000.00 in cash, said $182,000.00 so deposited with the trustee to be withdrawn by the applicant from time to time in accordance with the order of this Commission permitting the withdrawal; and

Whereas applicant has heretofore reported the cost of extensions, additions and betterments at $202,514.30; and

Whereas applicant reports that under its deed of trust it can issue bonds only to pay for 75 per cent of the cost of extensions, additions and betterments; and

Whereas applicant reports in a statement filed July 17, 1916, that it has expended from June 1, 1916, to June 30, 1916, both dates inclusive, the sum of $21,092.06 for extensions, additions and betterments to its plant; and

Whereas applicant asks authority to withdraw from the aforesaid fund remaining on deposit with the trustee the sum of $15,819.05,

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representing 75 per cent of the cost of extensions, additions and betterments installed during the month of June, 1916; and good cause appearing,

It is hereby ordered that Western States Gas and Electric Company be given authority and it is hereby given authority to withdraw from Girard Trust Company the sum of $15,819.05, being a portion of the amount deposited with the trustee in accordance with Decision No. 2726, dated August 21, 1915, of the Railroad Commission of the State of California.

It is hereby further ordered that Decision No. 2550, dated June 30, 1915, as amended by the supplemental orders thereto, shall remain in full force and effect, except as it may be modified by this fourteenth supplemental order.

Dated at San Francisco, California, this 20th day of July, 1916.

DECISION NO. 3526.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AUTHORITY TO RENEW CERTAIN PROMISSORY NOTES.

Application No. 2404.

Decided July 20, 1916.

Applicant granted permission to renew for a period of one year, four certain promissory notes of the aggregate amount of $13,957.54.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application of Midland Counties Public Service Corporation for authority to renew for a period not exceeding one year from their respective dates of maturity promissory notes in the total sum of $13,957.54.

The notes which applicant desires to renew are as follows:

Payee	Date	Amount	Interest	Maturity
Western Electric Company	June 15, 1916	$909 36	6%	Sept. 15, 1916
The J. G. White Eng. Corporation	June 3, 1916	2,653 03	6%	Sept. 3, 1916
The J. G. White Eng. Corporation	July 29, 1916	4,395 15	6%	Oct. 29, 1916
Union National Bank of San Luis Obispo	Feb. 8, 1916	6,000 00	7%	May 8, 1916

The first three of the above mentioned notes were issued under authority of this Commission's Decision No. 2719 (Vol. 7, Opinions and Orders of the Railroad Commission of California, page 915).

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Regarding the note to Union National Bank of San Luis Obispo in the principal sum of $6,000.00, witness for applicant stated that the proceeds from this note were used to retire a note to Commercial Bank of San Luis Obispo given previous to the effective date of the Public Utilities Act and secured by mortgage upon one of the units of applicant's system.

After a consideration of the evidence submitted by applicant, I am of the opinion that this application should be granted and accordingly submit the following form of order:

ORDER.

Midland Counties Public Service Corporation having applied to this Commission for authority to issue $13,957.54 face value of promissory notes for the purpose of renewing other notes now outstanding as hereinbefore set forth; and a hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted,

It is hereby ordered that Midland Counties Public Service Corporation be and it is hereby authorized to issue its promissory notes for a term not exceeding one year for the purpose of renewing the following promissory notes now outstanding:

Payee	Date	Amount	Interest	Maturity
Western Electric Company	June 15, 1916	$909 36	6%	Sept. 15, 1916
The J. G. White Eng. Corporation	June 3, 1916	2,653 03	6%	Sept. 3, 1916
The J. G. White Eng. Corporation	July 29, 1916	4,395 15	6%	Oct. 29, 1916
Union National Bank of San Luis Obispo	Feb. 8, 1916	6,000 00	7%	May 8, 1916

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall be issued so as to net applicant not less than the face value thereof.

(2) The notes herein authorized to be issued shall be issued to the same payees, at the same rates of interest and in the same amounts as the notes which they are given to renew.

(3) Applicant may, if it so desires, issue notes for a period of less than one year and renew said notes from time to time, provided that the combined terms of the notes herein authorized and those issued in renewal thereof shall not exceed one year.

(4) Midland Counties Public Service Corporation shall report to the Railroad Commission within ten days after the issue of the respective notes hereby authorized, the fact and the date of issue, the face value of the respective notes, the rate of interest and the application of the proceeds, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

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(5) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

(6) The authority herein granted shall apply only to such notes issued on or before September 30, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of July, 1916.

DECISION No. 3527.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CERTAIN PROMISSORY NOTES.

Application No. 2398.

Decided July 20, 1916.

Applicant authorized to renew for a period of not to exceed one year, nine certain promissory notes of the aggregate face value of $49,787.90.

A. E. Peat, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application of Southern California Gas Company for authority to renew for a period not exceeding one year from their respective dates of maturity promissory notes in the total sum of $49,787.90.

The notes which applicant desires to renew are as follows:

Payee	Date	Amount	Interest	Maturity
Sprague Meter Co.*	May 28, 1916	$10,625 11	6%	Aug. 28, 1916
The J. G. White Eng. Corporation*	May 29, 1916	3,036 70	6%	Aug. 29, 1916
Merchants National Bank of Los Angeles	June 7, 1916	3,312 95	6%	Sept. 5, 1916
Wm. G. Kerckhoff	May 1, 1916	5,000 00	6%	Aug. 1, 1916
Wm. G. Kerckhoff	May 1, 1916	5,000 00	6%	Aug. 1, 1916
Wm. G. Kerckhoff	May 1, 1916	5,000 00	6%	Aug. 1, 1916
The J. G. White Eng. Corporation	Mar. 24, 1916	2,730 16	6%	June 23, 1916
Sprague Meter Co.†	Feb. 20, 1916	11,210 67	6%	May 20, 1916
Kaspare Cohn Commercial and Savings Bank	Jan. 31, 1916	3,842 31	6%	July 31, 1916

*Former order of Commission No. 2717.
†Former order of Commission No. 2361.

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Witness for applicant stated that of the above notes, those issued to Sprague Meter Company and J. G. White Engineering Corporation represent notes issued directly for capital expenditures.

Witness further stated that the notes to William G. Kerckhoff and Kaspare Cohn Commercial and Savings Bank represent advances made by said parties and used either for additions and betterments or to reimburse applicant's treasury for capital expenditures made out of income. Witness also stated that the note to Merchants National Bank of Los Angeles was given by the company in order to take up a note given by a wholesale consumer in payment for gas purchased. This consumer went into bankruptcy and the company found it necessary to give its own note for the purpose of securing possession of the note given by the consumer.

After a consideration of the evidence submitted by applicant I am of the opinion that this application should be granted and accordingly submit the following form of order:

ORDER.

Southern California Gas Company having applied to this Commission for authority to issue $49,787.90 face value of promissory notes for the purpose of renewing other notes now outstanding as hereinbefore set forth; and a hearing having been held, and it appearing to this Commission that applicant's request is reasonable and should be granted,

It is hereby ordered that Southern California Gas Company be and it is hereby authorized to issue its promissory notes for a term not exceeding one year for the purpose of renewing the following promissory notes now outstanding:

Payee	Date	Amount	Interest	Maturity
Sprague Meter Co.	May 28, 1916	$10,625 11	6%	Aug. 28, 1916
The J. G. White Eng. Corporation.	May 29, 1916	3,036 70	6%	Aug. 29, 1916
Merchants National Bank of Los Angeles	June 7, 1916	3,312 95	6%	Sept. 5, 1916
Wm. G. Kerckhoff	May 1, 1916	5,000 00	6%	Aug. 1, 1916
Wm. G. Kerckhoff	May 1, 1916	5,000 00	6%	Aug. 1, 1916
Wm. G. Kerckhoff	May 1, 1916	5,000 00	6%	Aug. 1, 1916
The J. G. White Eng. Corporation.	Jar 24, 1916	2,730 16	6%	June 23, 1916
Sprague Meter Co.	Feb. 20, 1916	11,240 67	6%	May 20, 1916
Kaspare Cohn Commercial and Savings Bank	Jan. 31, 1916	3,842 31	6%	July 31, 1916

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall be issued so as to net applicant not less than the face value thereof.

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(2) The notes herein authorized to be issued shall be issued to the same payees, at the same rates of interest and in the same amounts as the notes which they are given to refund.

(3) Applicant may, if it so desires, issue notes for a period of less than one year and renew said notes from time to time, provided that the combined terms of the notes herein authorized and those issued in renewal thereof shall not exceed one year.

(4) Southern California Gas Company shall report to the Railroad Commission within ten days after the issue of the respective notes hereby authorized the fact and the date of issue, the face value of the respective notes, the rate of interest and the application of the proceeds, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) The authority herein granted is conditioned upon the payment by applicant of the fee prescribed in the Public Utilities Act as amended.

(6) The authority herein granted shall apply only to notes issued on or before August 31, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 20th day of July, 1916.

DECISION No. 3528.

IN THE MATTER OF THE APPLICATION OF PORT COSTA WHARF COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE RENEWAL OF WHARF FRANCHISE.

Application No. 2364.

Decided July 20, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission on June 28, 1916, issued an order in the above entitled matter, said order reading in part as follows:

> "This order shall not become effective until Port Costa Wharf Company shall have filed with this Commission a stipulation, duly authorized by the board of directors of said corporation, stating that neither Port Costa Wharf Company, its successors or assigns, shall, at any time, claim before the Railroad Commission or any other body for rate fixing or other purposes, a value for said wharf franchise granted to said corporation by the board of supervisors of Contra Costa County on July 6, 1896, or the

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renewal of said wharf franchise granted to said corporation by the board of supervisors of said county on June 5, 1916, in excess of the actual cost of procuring the same, which cost, if any, shall be stated in the stipulation, and the Commission shall have issued a supplemental order herein stating that said stipulation has been filed, and approving the same."

Whereas Port Costa Wharf Company has on July 19, 1916, filed the stipulation referred to in said order, said stipulation reciting that the actual amount expended in procuring the aforesaid franchise was $372.40.

It is hereby declared that the stipulation filed July 19, 1916, is in form satisfactory to this Commission.

Dated at San Francisco, California, this 20th day of July, 1916.

DECISION No. 3529.

IN THE MATTER OF THE APPLICATION OF PETER MATHIESON FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 2330.

Decided July 20, 1916.

REPORT OF THE COMMISSION.

This is an application by Peter Mathieson for a certificate that public convenience and necessity require the furnishing by him of water to three of his neighbors in the town of Centerville, Alameda County.

A public hearing was held in Centerville July 3, 1916. From the evidence it appears that applicant is the owner of a certain lot of land in Centerville situated about 300 yards from the center of said town, upon which is situated the well from which he obtains his water supply. He commenced serving certain of his neighbors approximately two and one-half years ago and has been serving them continuously since that time. Applicant is not operating under a franchise, as no part of his equipment runs across, through or upon any public street or on any land other than his own and that of his neighbors.

It further appears that applicant does not desire to extend his system to any new consumers, and that the Centerville Water Company is ready and willing to serve any other consumers in applicant's vicinity.

Under all the conditions of this case, we are of the opinion that the application should be granted.

ORDER.

Peter Mathieson having applied to this Commission for a certificate that public convenience and necessity require the furnishing by him

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of water to certain consumers in the town of Centerville, Alameda County, to whom he has been serving water for some time, and a public hearing having been held thereon, the Railroad Commission hereby declares that public convenience and necessity require the continuance of service of water by applicant to his present consumers.

Dated at San Francisco, California, this 20th day of July, 1916.

DECISION NO. 3530.

IN THE MATTER OF THE APPLICATION OF H. A. BROWN FOR AUTHORITY TO INCREASE WAREHOUSE RATES.

Application No. 2368.

Decided July 21, 1916.

Conditions warranting, applicant is permitted to establish an increased schedule of grain rates, such schedule conditioned upon the rendering of first-class service.

REPORT OF THE COMMISSION.

This is an application by H. A. Brown, who conducts a warehouse business at Honcut, Butte County, for authority to increase his rates for the storage and handling of grain. His present rates are as follows:

Storage of grain:	
To January 1st	50 cents per ton
For the season ending May 31st	75 cents per ton
Shipping grain through the warehouse	25 cents per ton
Storage of hops:	
For the first month	10 cents per bale
To January 1st	20 cents per bale
For the season ending May 31st	25 cents per bale
Storage of wool:	
For the first month	20 cents per bag
For each month after the first month	10 cents per bag

Under this application Mr. Brown is asking authority to establish the following warehouse rates for grain:

Storage to January 31st	$0 75 per ton
Storage for the season	1 00 per ton
Shipping through the warehouse	50 per ton

No request is made for authority to increase the storage rates for hops or wool.

A public hearing was held in Honcut July 18, 1916. From the evidence it appears that applicant owns a wooden warehouse, approximately 28 by 120 feet, located on land leased by him from the Southern Pacific Company, at a rental of $1.00 per year, which is served by a

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spur track installed at applicant's expense. The warehouse has a capacity of approximately 400 tons of grain; but according to Mr. Brown's testimony, his gross receipts for the year 1914 amounted to only $87.50, while his gross receipts for the year 1915 amounted to $191.49. Applicant had no data regarding his expenses for the year 1914, but he submitted the following as his expenses for the year 1915:

Labor	$53 75
Rent	1 00
Insurance	16 50
Taxes	2 00
Horse used in handling grain	10 00
Repairs	21 75
Total	$105 00

Applicant further testified that the approximate cost to him of the warehouse property was as follows:

Building	$1,200 00
Spur track	500 00
Scales	200 00
Total	$1,900 00

No protest was made against the proposed increase, although it appears that applicant gave all of his customers due notice of the hearing. We find that 40 cents per ton is as high a rate as should be allowed for shipping grain through the warehouse, but that, subject to this modification, the application should be granted.

ORDER.

H. A. Brown, engaged in conducting a warehouse in Honcut, Butte County, having applied to this Commission for an order authorizing an increase in his rates for the storage and handling of grain, and a public hearing having been held, and said application having been submitted and being now ready for decision, we hereby find as a fact that the existing rates are noncompensatory and unreasonable, and that the rates hereinafter authorized are just and reasonable.

Basing our conclusions upon the foregoing findings of fact and upon the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that applicant be and he is hereby authorized to establish and collect the following rates:

For the storage of grain to January 1st	$0 75 per ton
For the storage of grain for season ending May 31st	1 00 per ton
For shipping grain through applicant's warehouse	40 per ton

It is hereby further ordered that the collection of these rates shall be conditioned upon the rendering of first-class service as heretofore given, such as receiving, weighing-in, piling, carrying in storage and

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such other service as it is customary for warehousemen similarly situated to give, and in addition thereto all ordinary resacking, including the furnishing of sacks or otherwise placing the grain in proper condition for shipping.

The authority herein granted to increase rates is granted subject to the condition that applicant shall, within fifteen days from the date of this order, file in duplicate with this Commission a complete schedule of his warehouse rates, including those herein authorized.

Dated at San Francisco, California, this 21st day of July, 1916.

DECISION No. 3531.

IN THE MATTER OF THE APPLICATION OF VISALIA ELECTRIC RAILROAD COMPANY FOR AUTHORITY TO ISSUE CAPITAL STOCK OF THE PAR VALUE OF FORTY-SIX THOUSAND DOLLARS, AND OF SOUTHERN PACIFIC COMPANY TO ACQUIRE THE SAME.

Application No. 2432.

Decided July 21, 1916.

Visalia Electric Railroad Company authorized to issue 460 shares of its capital stock, of the par value of $100.00 per share, to the Southern Pacific Company, which latter company is authorized to purchase such stock, proceeds thereof to be used in the construction of an extension of the former company's line from Exeter to Ducor.

Frank Karr, for Petitioners.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

Visalia Electric Railroad Company asks authority to issue 460 shares of its common capital stock of the par value of $100.00 per share, and Southern Pacific Company asks authority to acquire said capital stock. A public hearing on this application was held in Los Angeles on Wednesday, July 19, 1916.

Visalia Electric Railroad Company conducts a freight and passenger business by electricity over the rails of the Southern Pacific Company from Visalia, Tulare County, easterly a distance of 10.75 miles, to Exeter; thence in a general northeasterly direction through Lemon Cove, a distance of approximately 24 miles to Lime Kiln Point; thence from Lime Kiln Point in a general easterly direction a distance of .3 mile to Terminus Beach; also from a point easterly from Lemon Cove, a distance of 8 miles westerly to Redbanks; also from Woodlake Junction on the Redbanks line, a distance of 4.7 miles northerly to Elderwood.

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Visalia Electric Railroad Company now proposes to build an extension from a point on its line of railroad approximately one mile east of Exeter, in a general southeasterly and southerly direction along the foothills, passing about four miles east of Lindsay, with a branch line to Lindsay; thence continuing southerly to a junction with the railroad operated by the Southern Pacific Company at Strathmore; and thence southerly to a junction with the railroad operated by the Southern Pacific Company at Ducor, approximately four miles south of Porterville. The extension will be operated by electric energy except that for the present the line south of Porterville will be operated by steam.

Visalia Electric Railroad Company has an authorized issue of common capital stock of the par value of $1,000,000.00, divided into 10,000 shares of the par value of $100.00 each; of the stock thus authorized, stock of the par value of $24,000.00 has been issued. All of the issued capital stock except one share for each of the five directors is owned by the Southern Pacific Company. Visalia Electric Railroad Company has no bonds or notes outstanding, but reports the following floating indebtedness as of April 30, 1916:

Due Southern Pacific Company (exclusive of $78,714.20 interest accrued during the present fiscal year)		$1,557,234 38
Current accounts payable:		
Pay roll vouchers	1,537 43	
Audited vouchers	3,131 35	
Interline traffic account	908 75	
Deferred liabilities:		
Hospital department	1,799 10	
Other suspense items	8,585 19	
Total		$1,573,196 20

Visalia Electric Railroad Company reports that no dividends have been paid by it during the last five years.

On July 16, 1916, Visalia Electric Railroad Company filed with the county clerk of Tulare County amended articles of incorporation, authorizing the construction of certain portions of its constructed line of railroad not heretofore described in its articles, and also the extension from Exeter to Ducor now to be constructed. The total length of railroad not heretofore described in the articles of incorporation is 46 miles, of which distance 33 miles represents the new mileage now to be constructed. The amended articles of incorporation recite that $46,000.00 par value of additional capital stock has been subscribed and that 10 per cent thereof, namely, $4,600.00, has been paid to the treasurer, as provided by section 294 of the Civil Code of this state. A certified copy of the amended articles of incorporation has been filed in the office of the Secretary of State.

The $46,000.00 capital stock for the issue of which authority is herein asked has been subscribed for by the Southern Pacific Company at par.

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The proceeds will defray in part the expense of constructing the extension from Exeter to Ducor.

Mr. Paul Shoup, president of Visalia Electric Railroad Company and vice president of Southern Pacific Company, testified that the line of railroad from Exeter to Ducor has been surveyed and that the cost of the extension, including the purchase of rights of way, will be approximately $600,000.00. The cost will be advanced by Southern Pacific Company, which may reimburse itself, at least to a considerable extent, by taking capital stock of Visalia Electric Railroad Company at par.

Mr. Shoup testified that a complete canvass of the territory had been made and that petitioners are satisfied that the proposed extension will be financially remunerative to them. The new business to be developed will be principally freight and will consist largely of citrus products and, at least for the present, of magnesite.

Minkler Southern Railway Company, extending from Minkler, in Fresno County, to Lindsay, in Tulare County, and owned by The Atchison, Topeka and Santa Fe Railway Company, plans to build southeasterly and southerly from Lindsay into a portion of the territory through which the Visalia Electric Railroad Company intends to build its extension.

I recommend that the petition be granted and submit the following form of order:

ORDER.

Visalia Electric Railroad Company having applied to the Railroad Commission for an order authorizing the issue of 460 shares of its common capital stock of the par value of $100.00 per share, and Southern Pacific Company having asked for an order authorizing said company to acquire said capital stock, and a public hearing having been held and the Railroad Commission finding that the purposes for which said capital stock is to be issued are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Visalia Electric Railroad Company is hereby authorized to issue 460 shares of its common capital stock, of the par value of $100.00 per share, to Southern Pacific Company, and Southern Pacific Company is hereby authorized to acquire said capital stock on the following conditions and not otherwise, to wit:

1. Visalia Electric Railroad Company shall sell said capital stock at par.

2. Visalia Electric Railroad Company shall use the proceeds from the sale of said capital stock on account of constructing an extension of its line of railway from a point approximately one mile east of Exeter in a general southeasterly and southerly direction to Ducor, in accordance

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with statement of itemized expenditures hereafter to be filed with the Railroad Commission.

3. Visalia Electric Railroad Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale and the moneys realized therefrom, and the use and application of such moneys, all in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority hereby granted shall apply only to such capital stock as may have been issued by Visalia Electric Railroad Company on or before August 1, 1917.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 21st day of July, 1916.

DECISION NO. 3532.

IN THE MATTER OF THE APPLICATION OF NEVADA, CALIFORNIA AND OREGON TELEGRAPH AND TELEPHONE COMPANY TO ISSUE BONDS OF THE FACE VALUE OF FIFTEEN THOUSAND DOLLARS.

Application No. 2359.

Decided July 21, 1916.

Applicant authorized to issue $15,000.00 face value of 40-year 6 per cent gold bonds to be sold at not less than 80, proceeds thereof to be used in the construction of a toll line between Cedarville and Alturas, a telephone exchange at Cedarville, and to reimburse treasury for capital expenditures made during a period ending December 31, 1915.

Applicant required to submit a satisfactory plan for the amortization of the difference between the salvage values of its present line between Cedarville and Alturas and the amount at which said line is carried on its books.

Scott Hendricks, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Nevada, California and Oregon Telegraph and Telephone Company, a Nevada corporation, engaged in conducting a general telegraph and telephone business in Lassen and Modoc counties, California, and also in portions of the states of Nevada and Oregon,

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for authority to issue $15,000.00 of its 6 per cent bonds, maturing April 1, 1954, at not less than 80 per cent of their face value, for the purposes of installing a toll line in Modoc County between Alturas and Cedarville, installing an exchange in Cedarville, and reimbursing its treasury.

A public hearing was held in San Francisco July 11, 1916. From the evidence it appears that both from the point of view of applicant, and from that of its consumers, it is desirable to replace the present line between Alturas and Cedarville with a new toll line and to install an exchange in Cedarville, the present single galvanized iron wire line being of such light construction that it is unable to withstand the snow load and other strains on the mountain range over which it passes, resulting in poor service and excessive maintenance charges. Applicant estimates that the new toll line will cost approximately $6,000.00, while the present line—which is carried on applicant's books at $1,200.00—will have a salvage value of from $300.00 to $500.00. Estimating the salvage value at $400.00, it thus appears that there will be $800.00 to be written off applicant's capital account in a manner satisfactory to this Commission.

Applicant's capital stock authorized by its articles of incorporation and the amount thereof outstanding is as follows:

Capital stock	Authorized (par value)	Outstanding (par value)
First preferred	$55,000 00	$42,294 00
Second preferred	20,000 00	15,217 00
Common	225,000 00	45,000 00
Total par value of stock outstanding		$102,511 00

Applicant also has an authorized bonded indebtedness of $300,000.00, represented by first mortgage 6 per cent sinking fund 40-year gold bonds, of which $55,000.00 face value have been issued; and two 8 per cent promissory notes upon which applicant at present owes a total of $11,023.46. Of the bonds issued $12,300.00 face value are pledged by applicant as security for one of the notes above referred to, and $42,700.00 face value have been sold to investors.

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Applicant's income statement for the last two years is as follows:

	1915	1914
Telephone operating revenues	$28,554 46	$22,909 09
Telephone operating expenses	19,485 46	16,207 14
Net operating revenues	$9,069 00	$6,701 95
Nonoperating revenues	221 25	292 02
Gross corporate income	$9,290 25	$6,993 97
Deductions from income—		
Interest on funded debt	$2,030 42	$1,575 00
Other interest	1,554 31	997 61
Taxes	1,174 32	840 93
Rent	1,069 55	734 58
Amortization	66 36	50 67
Miscellaneous	420 48	213 05
Total deductions	$6,315 44	$4,411 84
Net income	$2,974 81	$2,582 13

Applicant submitted the following balance sheet as of December 31, 1915:

Balance Sheet of Nevada, California and Oregon Telegraph and Telephone Company.

As of December 31, 1915.

Assets.		
Fixed capital installed prior to January 1, 1914	$65,254 25	
Fixed capital installed since December 31, 1913	92,062 71	
Total fixed capital	$157,316 96	
Reserve for accrued depreciation, Cr.	$4,980 87	
Reserve for amortization of intangible capital, Cr.	69 93	
Total credit	$5,050 86	
Net investment in fixed capital		$152,266 10
Cash		3,167 15
Bills receivable	$1,765 00	
Due from subscribers and agents	2,037 16	
Miscellaneous accounts receivable	547 71	
Materials and supplies	2,294 56	
Total working assets		6,644 43
Prepayments	$85 49	
Unamortized debt discount and expense	2,586 82	
Total deferred debit items		2,672 31
Total assets		$164,749 99

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Liabilities.

Capital stock		$102,511 00
Funded debt		42,700 00
Bills payable	$14,204 54	
Other current liabilities	231 45	
Taxes accrued	527 94	
Other accrued liabilities not due	994 56	
Total working liabilities		15,958 49
Corporate surplus unappropriated		3,580 50
Total liabilities		$164,749 99

Applicant introduced a statement supported by evidence at the hearing to the effect that it had expended from its income upon capital expenditures between April 1, 1914, and December 31, 1915, the sum of $3,606.77 for which it requests permission to reimburse its treasury out of the proposed issue.

While applicant wishes to sell these bonds upon a basis which will yield the purchasers an unusually high rate of interest, evidence was introduced to the effect that the prevailing rate of interest for good loans in the territory served by applicant is not less than 8 per cent per annum, and both the treasurer and the president of the company stated that they would use their best efforts to obtain the highest possible price for these bonds. No arrangements have as yet been made for their sale, but the company's officers hope to dispose of the bonds principally among the company's subscribers.

Under all the circumstances we find that the application should be granted.

ORDER.

Nevada, California and Oregon Telegraph and Telephone Company having applied to the Railroad Commission for authority to issue 150 of its first mortgage 40-year 6 per cent gold bonds, of the face value of $100.00 each, at not less than $80.00 per bond, and a public hearing having been held, and this Commission finding that the purposes for which said bonds or the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted, subject to the conditions hereinafter set forth,

It is hereby ordered that Nevada, California and Oregon Telegraph and Telephone Company be and the same is hereby authorized to issue $15,000.00 face value of said bonds.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) Nevada, California and Oregon Telegraph and Telephone Company shall issue said bonds so as to net said company not less than 80

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per cent of the face value of the principal thereof, in addition to accrued interest thereon.

(2) The proceeds of the bonds herein authorized to be issued shall be applied substantially as follows:

(*a*) To install a toll line between Alturas and Cedarville, Modoc County, in accordance with detailed estimates annexed to the application in the above entitled matter and marked "Exhibit C"	$5,981 87
(*b*) To install a telephone exchange at Cedarville in accordance with detailed estimates annexed to the said application and marked "Exhibit D"	2,514 39
(*c*) To reimburse applicant's treasury on account of money expended for capital account from income between April 1, 1914, and December 31, 1915, to be held in applicant's treasury and not to be expended for other than capital purposes, except upon a further order of this Commission	3,606 77
Total	$12,103 03

(3) The authority herein granted to issue bonds shall apply only to such bonds as shall be issued on or before June 30, 1917.

(4) Within sixty days from the date of this order applicant shall submit a plan satisfactory to this Commission for the amortization of the difference between the salvage value of the present line between Alturas and Cedarville and the amount at which said line is now carried on books of the company.

(5) Nevada, California and Oregon Telegraph and Telephone Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to this Commission setting forth the sale or sales during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(6) This order shall not become effective until the fee prescribed by section 57 of the Public Utilities Act has been paid.

Dated at San Francisco, California, this 21st day of July, 1916.

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DECISION NO. 3533.

IN THE MATTER OF THE APPLICATION OF INGLEWOOD WATER COMPANY FOR AN ORDER AUTHORIZING IT TO CHANGE RATES, ISSUE BONDS AND PURCHASE THE WATER SYSTEM FROM HYDE PARK WATER COMPANY, AND OF THE LATTER COMPANY TO SELL SAID SYSTEM.

Application No. 1972.

Decided July 21, 1916.

Supplemental order authorizing the issuance of $13,000.00 face value of bonds to retire notes and floating indebtedness; form of trust deed approved.

REPORT OF THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas on March 14, 1916, Decision No. 3157, this Commission authorized the applicant herein to issue $150,000.00 face value of 6 per cent first mortgage bonds, $13,000.00 face value of said bonds or so much thereof as might be necessary to be issued for the purpose of refunding indebtedness to various parties aggregating $12,975.64; and

Whereas applicant has now applied to the Commission for authority to sell said $13,000.00 face value of bonds at 95 per cent of their face value and accrued interest, and to use the proceeds in paying said indebtedness; and

Whereas applicant has also asked for authority to amend article 2, section 2, of its trust deed approved by the Commission in Decision No. 3311, dated May 6, 1916, it being desired to omit the clause in which the company agrees to pay all taxes levied or assessed upon the mortgage or upon the bonds secured thereby; and

Whereas applicant has submitted to the Commission for its approval a new deed of trust amended as above and also containing the two amendments authorized by the Commission in Decision No. 3496, dated July 8, 1916, but otherwise substantially in the same form and tenor as the indenture heretofore approved by this Commission in Decision No. 3311, dated May 6, 1916; and good cause appearing,

It is hereby ordered that Inglewood Water Company be and it is hereby authorized to issue $13,000.00 face value of the bonds heretofore authorized by the Commission in Decision No. 3157, dated March 14, 1916, at a price which shall net applicant not less than 95 per cent of their face value and accrued interest. The proceeds from the sale of

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said bonds shall be used by applicant only for the purpose of paying or refunding the following indebtedness:

H. R. Boynton Company	$4,015 64
First National Bank of Inglewood	3,000 00
Title Insurance and Trust Company	3,000 00
Sundry accounts payable as per Exhibit "I," attached to the original application herein	2,960 00
Total	$12,975 64

It is hereby further ordered that Inglewood Water Company be and it is hereby granted authority to execute a mortgage or deed of trust upon its properties substantially in the form of a mortgage or deed of trust submitted by applicant on July 17, 1916, and marked Exhibit "L," it being understood that the approval herein given of said mortgage or deed of trust is for the purpose of this proceeding only, and is an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

It is hereby further ordered that Decision No. 3311, dated May 6, 1916, authorizing applicant herein to execute a mortgage or deed of trust upon its properties substantially in the form and tenor of a mortgage or deed of trust attached to the application herein and marked Exhibit "K," and Decision No. 3496, dated July 8, 1916, authorizing applicant herein to amend said mortgage or deed of trust, be vacated and set aside.

It is hereby further ordered that Decision No. 3157, dated March 14, 1916, and such orders as have been issued supplemental thereto shall remain in full force and effect except as modified by this fourth supplemental order.

Dated at San Francisco, California, this 21st day of July, 1916.

Decision No. 3534, grade crossing; not printed. See end of volume.

DECISION NO. 3535.

IN THE MATTER OF THE APPLICATION OF MARTINEZ AND CONCORD INTERURBAN RAILWAY COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND FOR AN ORDER AUTHORIZING AN ISSUE OF STOCKS AND BONDS.

Application No. 2125.

Decided July 21, 1916.

Two certain trust indentures reviewed and approved, provided, one thereof is amended to provide that the holders of a majority of outstanding bonds may require the trustee to foreclose or protect and enforce the rights of such bondholders through appropriate legal channels.

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REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL OPINION.

On May 13, 1916, Decision No. 3330, this Commission authorized the applicant herein, Martinez and Concord Interurban Railway Company, to issue certain securities for the construction of a line of railroad in Contra Costa County upon the condition that applicant should first submit to this Commission for approval a copy of its trust deed securing an issue of first mortgage bonds and a copy of its indenture securing an issue of cumulative participating bonds.

Applicant has now submitted copies of said indentures and the same are ready for approval.

As security for an issue of $200,000.00 face value of first mortgage 6 per cent 25-year gold bonds applicant proposes to execute a trust deed mortgaging all property now owned or hereafter acquired to Mercantile Trust Company of San Francisco. The bonds so issued are to be redeemable at par and accrued interest. Five hundred of said bonds are to be of the denomination of $100.00 each, and 150 of said bonds are to be of the denomination of $1,000.00 each. A sinking fund is provided for, the railway company agreeing to set aside semiannually out of net earnings, after commencement of regular operation, a sum which shall equal 5 per cent per annum of its outstanding bonded debt.

The railway company also agrees to pay to the trustee all of the proceeds from the sale of $200,000.00 face value of 25-year 6 per cent cumulative participating bonds. Said proceeds are to be used for the purchase of first mortgage bonds which are to have interest coupons detached and are to be deposited with the trustee of the company's cumulative participating bonds as security for said cumulative participating bonds.

The trust deed as submitted to the Commission provides that in case of default in interest or in any other covenant continuing for sixty days, the trustee *may* and upon the request of the holders of a majority in amount of the outstanding bonds *shall* declare the principal of the bonds due and payable.

It is further provided (article V, section 2) that in case of default in interest continuing for sixty days, or in case of default in principal, or in case of default in any other covenant continuing for sixty days after written notice to the company, then the trustees—

(*a*) *May,* and upon the written request of the holders of a majority in amount of the outstanding bonds *shall,* enter upon the property;

(*b*) May cause the indenture to be foreclosed and the property sold;

(*c*) May proceed to protect the rights of the bondholders by appropriate legal proceedings;

(*d*) Shall be entitled to the appointment of a receiver.

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I am of the opinion that article V, section 2, should be amended to the end that the holders of a majority in amount of the outstanding bonds may require the trustee to sell the property or to institute suit. This will be made a condition of the order herein.

As security for an issue of $200,000.00 face value of 25-year 6 per cent cumulative participating bonds, applicant proposes to execute a trust indenture to Mercantile Trust Company of San Francisco. The bonds issued thereunder are to be redeemable at par and accrued interest and upon redemption are to be canceled.

It is proposed to issue 500 bonds of the par value of $100.00 each, and 150 bonds of the par value of $1,000.00 each, bonds to be issued as the trustee receives payment in full therefor or as an equal amount of first mortgage bonds are deposited as security.

It is provided that as the cumulative bonds are paid and canceled, a like amount of first mortgage bonds deposited as security shall also be canceled.

No bonds or coupons shall be deemed to be in default as long as the company complies with the sinking fund provisions of its first mortgage or until maturity of the bonds. In case of default in interest no foreclosure shall be had but interest shall be cumulative. Upon default at maturity the trustee *may* and upon request in writing by the holders of a majority in amount of the outstanding bonds *shall* proceed to institute suit for the purpose of causing the mortgaged property to be sold for the benefit of the bondholders.

The railway company agrees that no lien will be created prior to the lien of the cumulative participating bonds, excepting only the lien of the first mortgage bonds and the lien of purchase money mortgages, unless the holders of cumulative participating bonds are included within the security of such lien and are given an opportunity to exchange their holdings for an equal amount in par value of the securities secured by such lien.

After a consideration of the indentures submitted by applicant I am of the opinion that the same may be approved, subject, however, to the conditions of the following order:

THIRD SUPPLEMENTAL ORDER.

Martinez and Concord Interurban Railway Company having filed with the Commission for its approval copies of two certain trust indentures as hereinbefore set forth, and good cause appearing,

It is hereby ordered that Martinez and Concord Interurban Railway Company be and it is hereby authorized to execute a mortgage or deed of trust upon its properties as security for an issue of $200,000.00 face value of first mortgage 6 per cent 25-year gold bonds substantially in the form of a trust indenture submitted by applicant on July 13, 1916, and marked Exhibit "N."

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It is hereby further ordered that Martinez and Concord Interurban Railway Company be and it is hereby authorized to execute a trust indenture securing an issue of $200,000.00 face value of 25-year 6 per cent cumulative participating bonds substantially in the form of a trust indenture submitted on July 13, 1916, and marked Exhibit "O."

The authority herein granted is granted upon the following conditions and not otherwise:

(1) Before applicant shall finally execute the mortgage or deed of trust, hereinbefore referred to as Exhibit "N," it shall amend article V, section 2, of said deed of trust to the end that the holders of a majority in amount of the outstanding bonds shall have the right to require the trustee to foreclose the indenture and sell the property, or to protect and enforce the rights of the bondholders by appropriate legal or other equitable remedies.

(2) The approval herein given of said trust indentures is for the purpose of this proceeding only and is an approval in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said indentures as to such other legal requirements to which they may be subject.

(3) The authority herein granted shall apply only to such trust indentures as shall have been executed on or before September 30, 1916.

The foregoing second supplemental opinion and third supplemental order are hereby approved and ordered filed as the second supplemental opinion and the third supplemental order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 21st day of July, 1916.

Decisions Nos. 3536 and 3537, grade crossings; not printed. See end of volume.

DECISION NO. 3538.

IN THE MATTER OF THE APPLICATION OF MATTIE J. LONG FOR AUTHORITY TO DISCONTINUE THE OPERATION OF A PUBLIC UTILITY WATER SYSTEM AT DARWIN, INYO COUNTY, CALIFORNIA.

Application No. 2309.

Decided July 24, 1916.

REPORT OF THE COMMISSION.

Mattie J. Long having applied for authority to discontinue operating a public utility water system at Darwin, Inyo County, California, and a hearing having been had in this matter, and it appearing that said system is now used to serve only one person, and that he is furnished water without compensation, and it appearing that another system

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exists in said locality from which the person heretofore served from the system of applicant may hereafter receive water, and it appearing to the Commission that there is no reason why this application should not be granted,

It is hereby ordered that this application be and the same is hereby granted.

Dated at San Francisco, California, this 24th day of July, 1916.

Decision No. 3539.

IN THE MATTER OF THE APPLICATION OF W. F. BOARDMAN, CHAS. F. LEEGE, WM. C. CRITTENDEN AND CITY OF NEWPORT BEACH FOR THE APPROVAL OF AGREEMENT AND FOR PERMISSION TO SELL, BUY AND LEASE CERTAIN PORTIONS OF GAS GENERATING AND DISTRIBUTING SYSTEM IN THE CITY OF NEWPORT BEACH AND ON THE ISLAND OF BALBOA.

Application No. 2367.

Decided July 24, 1916.

The reproduction cost new less depreciation of certain gas properties of applicant in Newport Beach and on the island of Balboa, amounting to the sum of $1,773.00, is found to be a fair and reasonable price to be paid for such properties by the city of Newport Beach.

Applicant authorized to transfer its properties above mentioned at the price named, also certain additional properties for the sum of $3,000.00 and, pending such sale, to lease all of its gas properties to the city of Newport Beach for a period of ninety days, at a monthly rental of $250.00.

Harvey Sanborn and *Clyde Bishop,* for Applicants.

Report of the Commission.

This is the application of Messrs. W. F. Boardman, Chas. F. Leege and Wm. C. Crittenden who are the owners of a certain gas generating and distribution system in the city of Newport Beach, and a gas distributing system on and in the island of Balboa and the city of Newport Beach, requesting the approval of an agreement entered into between Messrs. W. F. Boardman, Chas. F. Leege, Wm. C. Crittenden and the City of Newport Beach for the sale, purchase and lease of the gas generating and distributing system as covered by an agreement and the transfer of property in the manner provided in said agreement; and, further, for the determination by the Commission of the fair, just and reasonable value of the gas distributing system and all appliances and appurtenances used on said distributing system in and on the island of Balboa, together with the transmission pipe line under and across Newport Bay connecting the distributing system in the city of Newport Beach with the distributing system in and on the island of Balboa.

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The parties in this application have entered into an agreement under date of June 19, 1916, to the general effect that subject to the approval of the Railroad Commission of the state of California the present owners agree to sell the gas generating plant with all appurtenances and appliances and including all land in Block 227, Section "A" in the city of Newport Beach to said city of Newport Beach for the sum of $3,000.00, and the city of Newport Beach agrees to pay same upon receipt of a good and sufficient deed conveying said property free and clear of all liens and encumbrances.

The owners further agree to sell and the City of Newport Beach to buy all of the gas distribution system including mains, services and meters in and on the island of Balboa together with the transmission main under Newport Bay at a price to be determined by the Railroad Commission of the state of California as a fair, just and reasonable value.

Pending the finding of the just and reasonable value and the approval of the agreement, the owners agree to lease to the City of Newport Beach the gas system in Newport Beach and the island of Balboa for a period of ninety days or less for the sum of $250.00 per month, and the owners reserve the right to remove their mains not purchased by the City of Newport Beach at the termination of the lease if work of removal is commenced within thirty days and completed in a reasonable time.

At the hearing in this application held at Newport Beach on June 30, 1916, Mr. E. S. Bryant, an assistant engineer in the gas and electric department of the Railroad Commission, submitted a valuation of the gas properties in Balboa Island and the transmission main connecting the distributing system in Newport Beach with that in Balboa Island. Mr. Bryant's valuation included an estimate of the reproduction cost new as of June 12, 1916, together with an estimate of the reproduction cost less accrued depreciation determined by a careful inspection of the condition of the pipe, consideration having been given to the comparative value of the pipe as now existing with that of a new system constructed at the present time. Additional estimates were submitted of the probable original cost and original cost less depreciation, which are summarized as follows:

Items, including overheads	Reproduction cost, new	Reproduction cost, less depreciation	Original cost	Original cost, less depreciation
Mains	$2,346	$1,579	$1,967	$1,329
Services	42	29	39	26
Regulators	70	47	70	47
Meters	175	118	166	111
Grand totals	$2,633	$1,773	$2,242	$1,513

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The applicants in this case are asking for the determination of the fair and reasonable price to be paid for a distributing system, and under the conditions existing in this case the only value which the system has is apparently its value as compared with the cost of duplicating the present service. We consider, therefore, that the estimated cost to reproduce less the depreciation as determined by inspection which may readily be considered as the value as compared with a new system, is the fair and reasonable price to be paid for the system.

The sum of $1,773.00 we therefore conclude is the fair price to be paid for the distribution system with its appliances and appurtenances located in the island of Balboa, together with the transmission main as previously noted and consisting of the following: 5,230 feet of 2-inch mains; 4,530 feet of 1-inch laterals; 25 ¾-inch services; 20 regulators and 19 meters, as listed in Mr. Bryant's valuation.

ORDER.

Messrs. W. F. Boardman, Chas. F. Leege and Wm. C. Crittenden, owners of a certain gas production and distribution system in the city of Newport Beach and island of Balboa and the City of Newport Beach having applied to this Commission to fix a fair value of the certain distribution and transmission system and to sell said property together with a certain gas generating plant and certain real property to the City of Newport Beach, and also for authority to lease all of said property to the City of Newport Beach under certain conditions, and a hearing having been had upon this application and the Commission being duly advised in the premises,

The Commission hereby finds that the sum of $1,773.00 is the fair value for the gas distribution system with its appliances and appurtenances located in and on the island of Balboa, together with the transmission main under Newport Bay connecting the gas distribution system in Newport Beach with that in the island of Balboa, and consisting of the following: 5,230 feet of 2-inch mains; 4,530 feet of 1-inch laterals; 25 ¾-inch services; 20 regulators and 19 meters.

It is hereby ordered that W. F. Boardman, Chas. F. Leege and Wm. C. Crittenden be and they hereby are authorized to transfer to City of Newport Beach for the sum of $1,773.00 the gas distributing system and the transmission main above described, and they are further authorized to transfer to the City of Newport Beach for the sum of $3,000.00 that certain real property in the city of Newport Beach more particularly described as Block 227, Section "A," together with the gas generating plant and all appurtenances and appliances situated thereon, and W. F. Boardman, Chas. F. Leege and Wm. C. Crittenden are hereby authorized to lease to the City of Newport Beach all of the property mentioned in this order for a period of ninety days or less for the sum of $250.00 per month in accordance

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with the terms and conditions of that agreement entered into between the parties of this application on June 19, 1916, and filed as Exhibit "A" in this proceeding.

The authority herein granted to sell or lease the property above described is made upon the following conditions and not otherwise: The City of Newport Beach shall file with the Railroad Commission a stipulation duly authorized by its board of trustees, stating whether the system so purchased or leased is serving any consumers outside the municipal limits, and that if so, the city will in the event that it purchases or leases any or all of the property above described, operate said property, assuming all the obligations which the former system owed to the public as a public utility, and the Commission shall have made a supplemental order stating that such stipulation has been filed with the Commission in form satisfactory to the Commission.

The authority herein granted to sell or lease public utility property shall apply only to the sale or lease of property on or before September 30, 1916.

Dated at San Francisco, California, this 24th day of July, 1916.

DECISION NO. 3540.

IN THE MATTER OF THE APPLICATION OF W. F. BOARDMAN, CHAS. F. LEEGE AND WM. C. CRITTENDEN TO SELL AND THE CITY OF HUNTINGTON BEACH TO PURCHASE A GAS SYSTEM IN THE SAID CITY, AND FOR THE COMMISSION TO FIX THE PRICE TO BE PAID THEREFOR.

Application No. 2366.

Decided July 24, 1916.

The sum of $10,107.00 being the depreciated reproduction new value of the properties of the applicants in the city of Huntington Beach, is found to be a fair and reasonable price to be paid for such properties by said city. Transfer of properties to the city is also authorized, provided the city shall file a stipulation to the effect that it assumes all obligations for service at present resting against the gas company as regards such consumers as may reside outside the municipal limits.

H. H. Sanborn, for Applicant.

A. B. Nelson, for City of Huntington Beach.

REPORT OF THE COMMISSION.

In this application Messrs. W. F. Boardman, Chas. F. Leege and Wm. C. Crittenden, owners of a gas distribution system in the city of Huntington Beach, and the City of Huntington Beach, a municipal corporation, apply to the Commission for the determination of the fair price which said city of Huntington Beach shall pay to the owners

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of the gas distribution system for said system, and further for the approval by the Commission of the sale of said distribution system by the present owners to the City of Huntington Beach at the price determined by the Commission.

Messrs. Boardman, Leege and Crittenden are owners of 65 per cent, 20 per cent and 15 per cent, respectively, of the gas distribution system now supplying the city of Huntington Beach, which system was formerly operated by the West Coast Gas Company, gas being obtained from a gas plant located at Newport Beach.

The City of Huntington Beach has entered into a contract with the Southern Counties Gas Company for a supply of natural gas to be distributed to its inhabitants and it desires therefore to purchase the present system rather than install a duplicate system.

At the hearing in this application held at Huntington Beach on June 30, 1916, Mr. E. S. Bryant, assistant engineer in the gas and electric department of the Railroad Commission, submitted a valuation of the gas system located within the corporate limits of Huntington Beach. In his report Mr. Bryant submitted an estimate of the reproduction cost new as of present day prices, also a reproduction cost less depreciation based upon a careful inspection of the property, consideration being given to the adequacy with which the system rendered the service required. An estimate was also made of the original cost and original cost less depreciation. The following is a summary of the estimates made by Mr. Bryant:

Gas Distribution System—City of Huntington Beach.

Including overheads	Reproduction, new	Less depreciation	Estimated original cost	Less depreciation
Mains	$13,796	$8,133	$11,723	$6,866
Services	430	258	401	241
Regulators	624	474	624	474
Meters	1,763	1,242	1,660	1,168
Total system	$16,613	$10,107	$14,408	$8,749

An investigation was also made by the Commission to determine the effect of electrolysis on the present system and testimony by Mr. Bridge of the Commission's electric department tends to show that although electrolysis had apparently caused deterioration of the pipes no abnormal condition existed at the present time, and as Mr. Bryant's estimate is based upon an inspection any deteriorating effect has been taken account of.

Included in Mr. Bryant's valuation is the value of the two-inch transmission main, some 4,500 feet long, within the city limits of Huntington Beach which is at present used in supplying artificial gas from

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the Newport plant, and although this may not be required in supplying natural gas to the city of Huntington Beach, it would appear of value should the city determine to depend upon the city of Newport Beach for a supply of artificial gas in case of failure of the gas transmission system of the Southern Counties Gas Company. However, the application does not specifically state whether the city proposes to purchase this part of the system or not. It therefore appears advisable to segregate the value of the distribution system from the transmission system and include also an estimate of the transmission main.

Considering all the evidence in the case, it would appear that the following is a fair and just value of the gas distribution system in the city of Huntington Beach and represents the price which said city of Huntington Beach should pay to Messrs. Boardman, Leege and Crittenden for said system:

TABLE No. 1.

Inventory and Fair Value—Gas Distribution System.

Huntington Beach, California.

Item	Quantity	Fair value	
2-inch transmission main—East city limits to First street	4,500 ft.	$825 00	
2-inch distribution mains	19,760 ft.	4,086 00	
1-inch distribution laterals	32,396 ft.	2,993 00	
¾-inch distribution laterals	1,950 ft.	229 00	
Total mains			$8,133 00
Services	261		258 00
Regulators:			
Perfection No. 1	148	$385 00	
Reliance No. 1	32	89 00	
			474 00
Meters:			
3-light standard	195	$1,200 00	
5-light standard	4	33 00	
Sprague No. 1-A	1	9 00	
Total meters			1,242 00
			$10,107 00

ORDER.

Messrs. W. F. Boardman, Chas. F. Leege and William C. Crittenden, owners of a certain gas distribution system, and the City of Huntington Beach having applied to this Commission to fix a fair and reasonable price to be paid for the certain distribution system, and to sell said property, and a hearing having been had upon this application, and the Commission being duly advised in the premises,

The Commission hereby finds that the sum of $10,107.00 is a fair price to be paid and received for the gas distribution system, with its

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appliances and appurtenances, located in the city of Huntington Beach, and consisting of the various amounts of pipe and the numbers of services, regulators and meters as listed in Table 1, above.

It is hereby ordered that W. F. Boardman, Charles F. Leege and William C. Crittenden be and they hereby are authorized to transfer to the City of Huntington Beach the gas distributing system above described in accordance with the terms and conditions of the agreement entered into between said parties and the City of Huntington Beach, under date of June 9, 1916, and filed as Exhibit "A" in these proceedings.

The authority herein granted to sell or lease the property above described is made upon the following conditions and not otherwise: The City of Huntington Beach shall file with the Railroad Commission a stipulation duly authorized by its board of trustees, stating whether the system so purchased or leased is serving any consumers outside the municipal limits, and that if so, the city will in the event that it purchases or leases any or all of the property above described, operate said property, assuming all the obligations which the former system owed to the public as a public utility, and the Commission shall have made a supplemental order stating that such stipulation has been filed with the Commission in form satisfactory to the Commission.

The authority herein granted to sell or lease public utility property shall apply only to the sale or lease of property on or before September 30, 1916.

Dated at San Francisco, California, this 24th day of July, 1916.

DECISION No. 3541.

IN THE MATTER OF THE APPLICATION OF BOARD OF SUPERVISORS OF TEHAMA COUNTY, CALIFORNIA, FOR PERMISSION TO CONSTRUCT A ROAD IN ROAD DISTRICTS NOS. 2 AND 5 OF TEHAMA COUNTY, AT GRADE OVER THE TRACKS OF SOUTHERN PACIFIC COMPANY.

Application No. 2126.

Decided July 26, 1916.

Though a crossing in the vicinity of the one applied for is necessary, such crossing should be constructed in a different locality to properly serve the requirements of the majority of the residents of this district.

Present application denied.

A. M. McCoy, for Samson & Thompson.

H. C. Kauffman, for Board of Supervisors of Tehama County.

J. J. Mooney, for Protestants.

C. J. McDonald, for Southern Pacific Company.

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REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

This application was filed on March 10, 1916, under section 2694 of the Political Code as amended January 2, 1912. A hearing was held on April 6, 1916, at Red Bluff, and on May 1st the Commission issued its order, Decision No. 3302, granting the application under certain conditions, one of which was the abandonment of the public road crossing on the Mooney road about one-half mile south of this proposed crossing. Several protests were received by the Commission against the abandonment of the Mooney crossing and on June 2, 1916, the Board of Supervisors of Tehama County asked for a rehearing in the matter. The Commission thereupon vacated the order previously made and ordered a rehearing, which was held at Red Bluff on June 7, 1916.

The previous opinion, Decision No. 3302, described in a general way the location of the roads and the railroad at the proposed crossing and in its vicinity, and it will not be necessary to repeat that description here; but the second hearing made it clear that there were certain conditions which were not fully brought out at the first hearing. The Board of Supervisors, at that time, were of the opinion that the Mooney road could be closed with but very little inconvenience to those who live near it, while at the second hearing it developed that during certain seasons of the year, the Mooney crossing was the only one of those in the neighborhood not rendered inaccessible on account of high water on the roads leading to them.

The evidence on this last point is so convincing that I am satisfied the protestants were justified in opposing the closing of the Mooney crossing; so the matter stands as it did before the first hearing. The point to be decided is: will the construction of this proposed crossing be of sufficient convenience to the residents of this section of Tehama County to offset the danger and hazard that the opening of a grade crossing always brings.

If this proposed crossing were considered alone the necessity for it on the part of the several ranchers, who live between the railroad and the river, and who have no route to a public road is possibly great enough to lead me to recommend the granting of this application. There are, however, other considerations. South of the proposed crossing the public crossings are spaced less than three-quarters of a mile apart, while to the north the nearest crossing is several miles distant. In the future there is no doubt that crossings will be wanted in this long distance, and one located at almost any point one or two miles north of the proposed crossing would better serve the convenience of those who are interested in this application than would the one here

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applied for. To use this crossing all traffic, except that from the Samson & Thompson ranch, would first have to go south, then west to the state highway and then to the north. With a crossing farther north no detour would be necessary.

While the opening of a road further north would increase the expense of securing an outlet, it seems to me it would be a mistake to grant this application and thus establish a new crossing which would be of small benefit to the community in general and would, possibly in a year, become of no use by the construction of a crossing north of it.

I recommend the following form or order:

ORDER.

Board of Supervisors of Tehama County having applied to the Commission for permission to construct a road in road districts Nos. 2 and 5 of Tehama County, at grade over the tracks of the Southern Pacific Company and a public hearing having been held and it appearing that a crossing in this vicinity, but in another location, would better serve public convenience and would make unnecessary additional crossings in the future,

It is hereby ordered that this application be and the same hereby is denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 26th day of July, 1916.

Decisions Nos. 3542 and 3543, grade crossings; not printed. See end of volume.

DECISION No. 3544.

IN THE MATTER OF THE APPLICATION OF ECONOMIC GAS COMPANY FOR AN ORDER APPROVING AN ISSUE OF BONDS OF SAID CORPORATION OF THE FACE VALUE OF NINE HUNDRED AND THIRTY THOUSAND DOLLARS.

Application No. 500.

Decided July 27, 1916.

REPORT OF THE COMMISSION.

FOURTH SUPPLEMENTAL ORDER.

Whereas this Commission in Decision No. 2355 (Vol. 6, Opinions and Orders of the Railroad Commission of California, page 792), authorized the applicant herein to issue on or before June 30, 1916, $262,000.00 face value of 6 per cent bonds; and

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Whereas applicant has now represented to this Commission that said bonds were erroneously referred to in said decision as 6 per cent bonds, its bonds being in fact 5 per cent bonds; and

Whereas applicant has now requested authority to issue $262,000.00 face value of its 5 per cent bonds on or before June 30, 1917, according to the conditions laid down in said Decision No. 2355; and good cause appearing,

It is hereby ordered that Economic Gas Company be granted authority and it is hereby granted authority to issue $262,000.00 face value of its 5 per cent bonds, and to place the same in the hands of L. P. Lowe, S. Waldo Coleman and C. W. Conlisk, trustees, said bonds to be sold for money needed for the corporate purposes of the applicant, but in no event to be sold at less than 83⅓ per cent of the face value, plus accrued interest.

It is hereby further ordered that the trustees for said $262,000.00 of bonds may pledge said $262,000.00 of bonds or any part thereof as collateral security for the purposes of the applicant herein, but in no event shall the notes for which said bonds shall be pledged as collateral be less than 66⅔ per cent of the face value of the collateral pledged.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The authority herein granted applicant to issue $262,000.00 face value of 5 per cent bonds is in lieu of the authority to issue $262,000.00 face value of 6 per cent bonds granted by Decision No. 2355, dated May 5, 1915.

(2) The proceeds derived from the sale of said 5 per cent bonds shall be used to pay floating indebtedness of applicant or shall be used for additions and betterments to applicant's property.

(3) Economic Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds from the sale of bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission, stating the sale or sales of said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(4) The authority herein granted shall apply only to such bonds as shall have been issued on or before June 30, 1917.

Dated at San Francisco, California, this 27th day of July, 1916.

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DECISION No. 3545.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY FOR PERMISSION TO CANCEL SWITCHING RATE OF TWO DOLLARS AND FIFTY CENTS PER CAR ON ASHES AND OTHER INCINERATOR REFUSE APPLYING AT SAN FRANCISCO, CALIFORNIA, BETWEEN THE PLANT OF THE SANITARY REDUCTION WORKS, ON THE ONE HAND, AND, ON THE OTHER, TRANSFER TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILROAD (COAST LINES), OCEAN SHORE RAILROAD COMPANY OR WESTERN PACIFIC RAILWAY COMPANY, ALSO INDUSTRY TRACKS AND PRIVATE SIDINGS, INCLUDING TEAM TRACKS WITHIN SWITCHING LIMITS OF THE SOUTHERN PACIFIC COMPANY, AS DEFINED IN ITEM 272, PAGE 46, OF THAT COMPANY'S TERMINAL TARIFF C. R. C. NO. 1260.

Case No. 224.

Decided July 28, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

The applicant in the action entitled as above having, on July 7, 1916, made written request that this proceeding be dismissed,

It is hereby ordered that the same be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this 28th day of July, 1916.

DECISION No. 3546.

D. MILLER

vs.

PACIFIC GAS AND ELECTRIC COMPANY.

Case No. 927.

Decided July 28, 1916.

Complainant being dissatisfied with the service rendered by the electric company at present serving his premises, petitions the Commission to compel defendant, serving the same territory, to render him service.

Defendant directed to serve the apartments of complainant, irrespective of an unexpired contract existing between complainant and Great Western Power Company, provided complainant shall pay all costs of an underground service connection.

D. Miller, in *propria persona*.

Charles P. Cutten, for Defendant.

REPORT OF THE COMMISSION.

The complaint herein alleges that defendant has refused to serve complainant's apartment house, known as the Ideal Apartments,

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located at 307 Twenty-first street, Oakland, with electric service, and prays that the Commission require the defendant to serve said apartments.

The complainant alleges in effect that he owns the Ideal Apartment House; that it is at present being served by the Great Western Power Company; that the said service is unsatisfactory and that at times he is without light and power in said apartment house; that for the above reasons he has made application to the Pacific Gas and Electric Company to supply his house with electricity but that said company has refused to do so, and attributes the refusal to the reason that complainant has a contract with the Great Western Power Company for service, which contract has not normally expired.

In its answer defendant admits that complainant is supplied by the Great Western Power Company and that defendant has refused, and still refuses, to supply complainant with electric current for the reason that complainant is receiving current under a contract with the Great Western Power Company. Defendant alleges, on information and belief, that complainant is supplied with electric energy by the Great Western Power Company through an underground service; that the cables constituting said underground service are the property of the Great Western Power Company, and that defendant can not supply the complainant with lighting and power service through said service unless the Great Western Power Company shall discontinue service.

From the testimony in this case it appears that at the present time the Ideal Apartments are being supplied by the Great Western Power Company under a three-year contract entered into February 5, 1914.

Originally the service to the apartment house was made by an overhead connection which was later changed to underground, and the cost of this latter service was partly borne by Mr. Miller and partly by the Great Western Power Company. At the present time an underground service and riser pipe are installed. The Great Western Power Company's lines are located on the opposite side of the street from the apartment house, and service is rendered by the use of a joint pole owned by the Pacific Gas and Electric Company and the Great Western Power Company, adjacent to the apartments, upon which the riser is located. Testimony at the hearing regarding the ownership of the service, conduit and cable was somewhat conflicting, and the Great Western Power Company and the complainant were asked to advise by letter the facts regarding the ownership. From the statements submitted, it appears that as far as the service is concerned Mr. Miller

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paid for the conduit and lead-covered duplex cable, the Great Western Power Company furnishing the neutral wire.

Although objections to the character of the service rendered by the Great Western Power Company were made by complainant, it appears that the continuity of service was such as to cause few complaints from other consumers.

The service to this apartment house is underground, but the territory in which it is located is not in the underground territory of Oakland. According to the testimony of Mr. Furniss of the Pacific Gas and Electric Company, the ordinance requirements of Oakland do not compel the electric company to construct underground services to the consumers in overhead districts, and in this case Mr. Miller expressed his willingness to pay for, or construct at his own expense, the underground services which will be necessary. As it is agreed that the riser pipe and part of the cable was supplied by Mr. Miller in the service connection now existing, it should not be necessary for an additional underground service to be constructed.

We find on the facts of this case that service should be rendered to complainant by defendant.

ORDER.

Complainant having applied to the Railroad Commission for an order directing the defendant, Pacific Gas and Electric Company, to connect its lines so as to serve complainant with electricity at his premises, and the Railroad Commission, after public hearing in relation thereto, having fully considered the facts and proofs adduced and all and singular being advised in the premises; now therefore,

It is hereby ordered that defendant, Pacific Gas and Electric Company, shall, within twenty (20) days from the date of this order, make the necessary connections of its electric distribution lines to serve complainant with electricity sufficient to supply the requirements of the Ideal Apartments, under the following conditions:

1. Complainant, D. Miller, shall make the usual application to defendant for service.

2. All necessary underground service wires and pipes required shall be furnished by complainant at his own expense in accordance with complainant's offer.

Dated at San Francisco, California, this 28th day of July, 1916.

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Decision No. 3547, grade crossing; not printed. See end of volume.

DECISION NO. 3548.

IN THE MATTER OF THE APPLICATION OF CHARLES I. D. LOOFF FOR THE APPROVAL OF A SALE AND AWARD BY THE CITY COUNCIL OF THE CITY OF SANTA MONICA OF A WHARF FRANCHISE IN SAID CITY OF SANTA MONICA TO SAID CHARLES I. D. LOOFF.

Application No. 2362.

Decided July 28, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Applicant having filed with the Railroad Commission stipulation as required by the order heretofore made in this proceeding on July 15, 1916, said stipulation fixing the cost and valuation which may be claimed for the franchise granted to applicant by the City of Santa Monica by its Ordinance No. 22, Commissioners' Series, at four hundred and fifty (450) dollars, and said stipulation being satisfactory to the Commission in form and substance,

It is hereby ordered that the said wharf franchise be and it is hereby approved.

Dated at San Francisco, California, this 28th day of July, 1916.

DECISION NO. 3549.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF CERTAIN FRANCHISE RIGHTS HERETOFORE GRANTED TO IT BY THE CITY OF SAN GABRIEL.

Application No. 2352.

Decided July 29, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Applicant having filed with the Railroad Commission stipulation as required by the order heretofore made in this proceeding on June 29, 1916, said stipulation fixing the cost and valuation which may be claimed for the franchise granted to applicant by the City of San Gabriel by its Ordinance No. 96 at the sum of one hundred sixty-three and sixty one-hundredths (163.60) dollars.

It is hereby declared that stipulation in form satisfactory to the Railroad Commission has been filed with the Railroad Commission pursuant to said order of June 29, 1916.

Dated at San Francisco, California, this 29th day of July, 1916.

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Decision No. 3550.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY FOR AN ORDER AUTHORIZING THE SALE OF TWO HUNDRED AND SEVENTY-SEVEN FIRST MORTGAGE FIVE PER CENT SINKING FUND FORTY-YEAR GOLD BONDS.

Application No. 2384.

Decided July 31, 1916.

Applicant having made certain capital expenditures from income, applies for and is granted permission to issue $224,000.00 face value of bonds, such bonds to be sold at not less than 90, repurchased by applicant at the same price and delivered to its trustee covering sinking fund obligations due July 1, 1916.

Guy C. Earl and *Chaffee E. Hall*, for Applicant.

Report of the Commission.

Thelen, *Commissioner.*

Great Western Power Company asks authority to issue at not less than 90 per cent of their face value plus accrued interest, $277,000.00 face value of first mortgage 5 per cent sinking fund 40-year gold bonds.

Applicant alleges that prior to May 31, 1914, it expended for extensions, additions and betterments the sum of $249,350.48, against which expenditure no stock, bonds or other securities have been issued. The expenditures are set forth in Exhibit "B" attached to the petition herein and are as follows:

(*a*) Expenditures during the months of April and May, 1914:		
Additions and improvements to distribution systems	$52,822 12	
Additions and improvements to transmission system (credit)	518 84	
Additions and improvements to production system	95,643 93	
Additions and improvements to lands appurtenant to hydroelectric development	30,591 65	
Additions and improvements for general utility purposes	1,087 88	
Completion of gravity section type dam at Big Meadows	20,161 89	
		$199,788 63
(*b*) Expenditures prior to March 31, 1914, uncapitalized		49,561 85
Total		$249,350 48

Applicant desires to reimburse its treasury on account of the foregoing expenditures. It proposes to issue its bonds to Western Power Company, of New Jersey, at not less than 90 per cent of their face value plus accrued interest, repurchase them at the same price and use them to pay applicant's first sinking fund installment under its mortgage or deed of trust dated July 1, 1906, and executed to Central Trust Company of New York, as trustee. Under this mortgage Great Western Power Company is obligated to pay to the trustee on July 1,

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1916, and annually thereafter, for the purpose of creating a sinking fund, a sum equal to 1 per cent face value of the bonds outstanding. At its option Great Western Power Company may surrender to the trustee for cancellation, first mortgage bonds in lieu of cash. The bonds thus surrendered to the trustee in payment for the annual sinking fund installment shall be accepted at their face value.

Applicant reports that bonds in the face amount of $22,397,000.00 are outstanding. Of this amount, $693,000.00 face value are pledged as collateral. The trustee takes the position that the bonds pledged as collateral are "outstanding," as that term is used in the mortgage or deed of trust. The sinking fund payment due on July 1, 1916, thus amounts to $223,970.00 which will call for the issue of bonds of the face value of $224,000.00. Upon having its attention called to the fact that the sinking fund installment calls only for an issue of $224,000.00 face value of bonds, applicant asked permission to amend its petition so as to request authority to issue bonds of the face value of $224,000.00 in lieu of the $277,000.00 referred to in the petition.

The establishment by applicant of an adequate depreciation reserve is now being taken up with applicant by the Railroad Commission and need not receive special consideration herein.

I herewith submit the following form of order:

ORDER.

Great Western Power Company having applied to the Railroad Commission for authority to issue $277,000.00 face value of first mortgage 5 per cent sinking fund 40-year gold bonds, and a public hearing having been held and it appearing that the purposes for which applicant proposes to issue said bonds are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Great Western Power Company be and the same is granted authority to issue $224,000.00 face value of first mortgage 5 per cent sinking fund 40-year gold bonds, on the following conditions and not otherwise:

(1) Great Western Power Company shall issue said bonds so as to net not less than 90 per cent of their face value, plus accrued interest, and shall thereafter reacquire said bonds at not to exceed said price and deliver them to the trustee under the company's first mortgage or deed of trust in payment of the sinking fund obligation due July 1, 1916.

(2) Great Western Power Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make a verified report to the Railroad Commission stating the sale or

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sales of said bonds during the preceding month, the terms and conditions of the sale and the moneys realized therefrom, and the use and application of such moneys, all in accordance with the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted to issue bonds shall not be effective until Great Western Power Company has paid the fee specified in the Public Utilities Act.

(4) The authority herein granted to issue bonds shall apply only to such bonds as shall have been issued on or before October 1, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 31st day of July, 1916.

DECISION No. 3551.

IN THE MATTER OF THE APPLICATION OF COUNTY OF RIVERSIDE FOR THE INSTALLATION OF AN OVERHEAD CROSSING ON THE MAIN COUNTY HIGHWAY FROM RIVERSIDE-MORENO TO BEAUMONT OVER THE MAIN TRACK OF THE SOUTHERN PACIFIC COMPANY, ABOUT ONE-HALF MILE WEST OF BEAUMONT STATION.

Application No. 2261.

Decided July 31, 1916.

Applicant granted permission to construct an overhead crossing over the tracks of Southern Pacific Company near Beaumont, the estimated expense of which amounts to $12,510.45, which is apportioned, $5,025.00 to the railroad company, the balance to applicant.

Lyman Evans, district attorney, for Applicant.

Geo. D. Squires, for Southern Pacific Company.

REPORT OF THE COMMISSION.

GORDON, *Commissioner.*

In this application Riverside County seeks permission to construct an overhead crossing of the tracks of Southern Pacific Company near Beaumont and asks that Commission to apportion the expense between the railroad company and the county. A public hearing was held on this application on June 12, 1916.

The road on which this crossing is desired is a main highway of Riverside County, which has been built from the funds derived from a large bond issue and which extends from the city of Riverside by way of Moreno to Beaumont and eastward to the county line, where it connects with roads to the Imperial Valley and the east. It has been

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laid out to cross the tracks of the Southern Pacific Company about one-half mile west of that company's station at Beaumont at the point where the track is in a cut and the surrounding country lends itself readily to grade separations. No objection was made to the construction of an overhead bridge at this point and there appears to be no reason why this application should not be granted.

The proper division of the expense is not so easily disposed of. The total cost of the bridge and the grading of the approaches, including a culvert under one approach, is estimated to be $12,510.45. The county desires the railroad company to pay one-half of this cost. The cost of the bridge has been divided as follows between the bridge and the approaches:

Bridge	$7,408 00
Embankment on approaches	3,960 00
Culvert under embankment	1,142 45
Total	$12,510 45

In an earlier estimate the cost of the bridge was estimated to be about $5,500.00 and the Southern Pacific Company offered to pay one-half of this estimated cost. It will thus be seen that there is considerable difference between what the railroad officials think they should pay and what the county considers it equitable for them to pay.

The difficulties of properly apportioning the expense of crossing separations have been too often discussed in the Commission's opinions to make it necessary to dwell upon the subject here. Neither the method of apportioning the expense proposed by the railroad company nor that proposed by the county appeal to me in this proceeding. The apportionment of the expense must be determined by a consideration of the special facts shown in this proceeding.

The approaches to the bridge are as necessary as the bridge itself, and as the approaches can not be distinguished from any other part of the highway, there is no logical reason for considering the embankment as part of the grade separation and omitting the adjoining cuts. On the other hand, as the profile for this project has been presented, the county must make extensive cuts before reaching the right of way of the Southern Pacific Company, and the earth from these cuts will be deposited in the embankment on and adjacent to the Southern Pacific Company's right of way, constituting a part of the overhead crossing.

The Southern Pacific Company has a single track line at the point of the proposed crossing, but the bridge has been designed for a double track and the estimate of cost, given above, includes a sum of between fifteen and sixteen hundred dollars to provide for an additional track. Taking this into consideration, and the fact that there is a public highway crossing (identified as being at bridge No. 560 A) about one mile

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west of this proposed crossing, which can and should be closed when the overhead bridge is constructed, it seems to me to be fair for the Southern Pacific Company to pay $5,025.00 toward this grade separation project under the plans now presented, and I shall make this recommendation.

It appeared from the testimony of all witnesses, including the supervisors, that when this overhead bridge is completed the Viele avenue crossing in the town of Beaumont, which is one-half of a mile east of the proposed crossing, could be closed without public inconvenience. Beaumont is an incorporated town. As it was not represented at the hearing the Railroad Commission can not, of course, order the closing of the crossing as the record now stands. I believe, however, that a copy of this opinion and order should be sent to the city officials of Beaumont and, if conditions are as they have been stated to be, those officials should take steps to close the Viele avenue crossing as soon as the overhead crossing is open for traffic.

I recommend the following form of order:

ORDER.

Riverside County, California, having applied to the Railroad Commission for permission to construct an overhead crossing over the tracks of Southern Pacific Company, one-half mile west of the company's station at Beaumont, California, and having asked the Railroad Commission to apportion the expense of the same, and a public hearing having been held, and it appearing to the Railroad Commission that this application should be granted subject to certain conditions, and that the expense of this construction should be divided between the parties in accordance with the following order,

It is hereby ordered that the County of Riverside be and the same is hereby granted permission to construct a county highway above the tracks of Southern Pacific Company, about one-half mile west of Beaumont station, at the point more particularly shown by the map attached to the petition herein, subject to the following conditions:

(1) The overhead bridge shall in all clearances conform to the Railroad Commission's General Order No. 26.

(2) The public highway crossing about one mile west of this overhead crossing, near Southern Pacific Company's bridge No. 560A, shall be legally closed and abandoned as a public highway crossing upon the completion of the overhead crossing.

(3) The expense of the construction of said overhead crossing, on the plans now presented, shall be as follows: the Southern Pacific Company shall pay $5,025.00 and the County of Riverside shall pay the remaining expense. If changes in the present plans should involve an increase or a decrease in the cost of the work, the parties may apply

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to the Railroad Commission for a supplemental order based on such changes in cost.

(4) The Railroad Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 31st day of July, 1916.

DECISION NO. 3552.

IN THE MATTER OF THE APPLICATION OF GEORGE H. HALL FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 2229.

Decided July 31, 1916.

Applicant's petition for a certificate permitting the construction of an electrical distributing system serving the town of Taylorsville held in abeyance for a period of ninety days pending the efforts of the Plumas Light and Power Company to construct a transmission line to serve such territory.

S. C. Young, for Applicant.

Curtis Hillyer, for Plumas Light and Power Company, Protestant.

REPORT OF THE COMMISSION.

This is an application of George H. Hall for a certificate of public convenience and necessity to construct and operate an electric light and power system in the town of Taylorsville, Plumas County, and vicinity, under a franchise granted by the board of supervisors of said county.

Taylorsville is an unincorporated town of approximately 250 inhabitants, located in what is known as the Indian Valley. At the present time it is without electric energy for lighting and power purposes. Considerable testimony was presented at the hearing to show that a demand exists for such service.

Mr. Hall, the applicant herein, is the owner of a small sawmill in the town of Taylorsville. He proposes to construct a hydroelectric plant in connection with the sawmill, using the waters of Indian Creek, which are to be diverted from the creek bed by a temporary dam to be reconstructed each year by an irrigation company which holds a right to the water below the proposed power site. The water is to be led through an old mill race some 3,000 feet.

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An investigation was made by one of the Commission's engineers who reports that the maximum static head which can be obtained in this manner is ten feet. He further reports that in view of the prospective development of this section it is doubtful whether the energy thus generated will be sufficient to adequately serve the community.

Plumas Light and Power Company appeared at the hearing to protest against the granting of this application. This company has its headquarters at Greenville, Plumas County. It purchases power under contract from Great Western Power Company, serving the towns of Greenville and Crescent Mills and the United States Indian School. It now proposes to build a two-mile transmission line from Taylorsville to connect with the line of Great Western Power Company.

Plumas Light and Power Company alleges that it has long considered this territory as part of its legitimate field of operation and that only unforeseen difficulties in obtaining the necessary funds have prevented it from constructing its line into the town of Taylorsville.

Plumas Light and Power Company asks that the application be denied on the ground that it can furnish a more economical and satisfactory service than the applicant herein.

It appears that the present application is an effort on the part of the citizens of Taylorsville to secure electric energy after repeated promises of Plumas Light and Power Company to enter this territory remained unfulfilled. This territory is clearly entitled to electric energy and it is desirable that the same be supplied at the earliest possible moment. This section has undergone considerable growth during the last two years and its further development is being retarded by lack of proper power and lighting facilities.

In passing upon this application the Commission's primary interest is to see that this territory is supplied with electric energy at the earliest possible moment, and that the service rendered is of the most efficient and economical character.

As heretofore stated, considerable doubt exists as to the ability of applicant to furnish satisfactory service under the plan herein proposed. On the other hand, it appears that Plumas Light and Power Company is getting its affairs in shape so as to be able within the near future to complete its construction program. Recently the Commission has authorized the company to issue $15,000.00 face value of notes. Of the proceeds, more than $8,000.00 is to be used to build extensions, which include the Taylorsville line, and to make necessary improvements.

While commending the spirit displayed by Mr. Hall and his fellow citizens, we are of the opinion that final action on this application should be held in abeyance and Plumas Light and Power Company given a reasonable time to construct its Taylorsville line. We know

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of no reason why this line should not be constructed within ninety days from the date of this order. If at the expiration of said ninety days Plumas Light and Power Company has not completed its Taylorsville line, the Commission will at the request of the applicant herein give this application further consideration.

We herewith submit the following form of order:

ORDER.

George H. Hall having applied to this Commission for a certificate of public convenience and necessity to construct and operate an electric distributing system in Taylorsville, Plumas County, and vicinity, under a franchise granted by the board of supervisors of said county, on the 9th day of March, 1916,

And a hearing having been held and it appearing to this Commission that for the reasons set forth in the foregoing opinion that final action on this application should be held in abeyance for ninety days from and after the date of this order,

It is hereby ordered that further consideration on application of George H. Hall for a certificate of public convenience and necessity to construct and operate an electric power plant and distributing system in Taylorsville, Plumas County, and vicinity be held in abeyance for ninety days from and after the date of this order.

Dated at San Francisco, California, this 31st day of July, 1916.

DECISION NO. 3553.

IN THE MATTER OF THE APPLICATION OF PLUMAS LIGHT AND POWER COMPANY FOR AN ORDER AUTHORIZING AN ISSUE OF BONDS OR NOTES.

Application No. 2297.

Decided July 31, 1916.

The issuance of a note or notes of the aggregate face value of $15,000.00, secured by a mortgage upon applicant's property, authorized for the purpose of extensions and improvements and to discharge certain indebtedness. New schedule of power rates as proposed by applicant approved.

Curtis Hillyer, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Plumas Light and Power Company, a corporation, for authority to issue a sufficient amount of bonds or notes secured by mortgage on its property to pay for certain proposed extensions, additions and betterments, to refund as much of the company's

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existing indebtedness as the Commission finds is warranted by the conditions which surround the company, and to put into effect the power rates set forth in Exhibit "C" attached to the petition herein.

The financial history of the company has been reviewed in several decisions of this Commission and it is unnecessary to recite that history here. The properties of the Plumas Light and Power Company are located near Greenville, Plumas County. It appears that the company owns 120 acres of meadow and hill lands. It also owns a 40-horsepower, 200-foot head electric plant, a 220-volt distribution system, which is approximately 9¼ miles in length and serves the town of Greenville, Crescent Mills and the United States Indian School.

In connection wtih Application No. 1438, Volume 6, Opinions and Orders of the Railroad Commission of California, page 267, the Commission's engineers estimated the reproduction cost of applicant's plant as follows:

Lands	$8,000 00
Hydraulic plant development	8,000 00
Distribution lines	5,850 00
Transformers and meters	1,800 00
Engineering, superintendence, etc.	2,200 00
Total	$25,850 00

Applicant does not operate its generating plant at present, but is purchasing electrical energy from Great Western Power Company.

Plumas Light and Power Company proposes to expend $8,050.00 for extensions, additions and betterments to its plant. As shown in Exhibit "A," the proposed extensions and improvements consist of the following:

Two miles of transmission line from Taylorsville tap on the Great Western Power Company line to Taylorsville, 2,300 volts, 3-phase, 60-cycle, No. 6 copper wire, $750.00 per mile	$1,500 00
Three miles of transmission line from Taylorsville tap to Scheiser and Mounds, 2,300 volts, 3-phase, 60-cycle, No. 8 copper wire, $600.00 per mile	1,800 00
Extension of two miles transmission line above the Indian School, 2,300 volts, 3-phase, 60-cycle, No. 8 copper wire, $600.00 per mile	1,200 00
Seven miles of third wire put on present pole line from Taylorsville to Crescent Mills, and from said substation at Greenville tap of Great Western Power Company line to Indian School, No. 6 copper wire, $150.00 per mile	1,050 00
Meters for new customers in Taylorsville and elsewhere	600 00
Transformers necessary due to above extensions	1,500 00
Total	$7,650 00

Applicant's engineer estimated that the cost of the proposed extensions and improvements would be $8,050.00, instead of $7,650.00 as shown in the foregoing statement.

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The testimony submitted in support of the application herein shows that applicant has pending 53 power and light applications. Of these, 26 will be served by the Greenville line, 23 by the Taylorsville line and 14 by the Crescent Mills line. The estimated minimum monthly revenue to be derived from the prospective consumers is reported at $484.50, whereas the increase in operating expenses is estimated at $75.00 per month.

Applicant reports an indebtedness of $18,240.62, of which approximately $3,500.00 is in the form of a judgment. The balance of the indebtedness is evidenced by promissory notes and accounts payable. Counsel for applicant made the statement at the hearing that in his opinion an extension of the time of payment could be had as to most of the notes outstanding. It is imperative, however, that applicant secure funds to pay for the proposed extensions and improvements and satisfy the judgment entered against it. The application herein is for authority to issue either bonds or notes. In view of the present financial condition of applicant, we are of the opinion that it would be advantageous for applicant to issue notes secured by a mortgage rather than bonds.

We believe that applicant should be permitted at this time to issue notes for a term of five years or less in the sum of $15,000.00. A note issue of $15,000.00 we believe will be adequate to meet the immediate needs of the company. If not, the Commission will entertain a supplemental application for authority to issue notes in additional amounts. Hereafter, if the earnings of applicant should increase as predicted, it should be able to market its bonds at a better rate than at present and thus secure funds to pay or refund the notes herein authorized.

Applicant has not submitted for approval a copy of its proposed mortgage or deed of trust. Hence the order herein will provide that no notes shall be issued until this Commission has issued a supplemental order authorizing the execution of a mortgage or deed of trust securing the payment of the notes herein authorized. In such supplemental order the Commission will also fix the price at which the notes may be issued, the rate of interest and the purposes for which the proceeds may be used.

Applicant also asks authority to put into effect a schedule of power rates set forth in Exhibit "C" attached to the application. The rates which applicant proposes to put into effect are as follows:

> One to 5 horsepower motors, single phase only, minimum rate $2.50 per horsepower per month.
>
> First 72 kilowatt hours per horsepower installed, 5 cents per kilowatt hour per month.
>
> All over, 4 cents per kilowatt hour per month.
>
> Seven and one-fourth to 10 horsepower, 3-phase motors, minimum rate, $2.00 per horsepower per month.

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First 72 kilowatt hours per horsepower installed, 4½ cents per kilowatt hour per month.

Second 72 kilowatt hours per horsepower installed, 3½ cents per kilowatt hour per month.

All over 144 kilowatt hours per horsepower installed, 2½ cents per kilowatt hour per month

Anything above 10 horsepower will take a special rate to be agreed upon between the Plumas Light and Power Company and the consumer.

We find that the rates proposed by applicant are lower than those now in effect and know of no reason why this part of the application should not be granted.

We herewith submit the following form of order:

ORDER.

Plumas Light and Power Company having applied to this Commission for authority to issue bonds or notes and to put into effect certain power rates as heretofore indicated, and a hearing having been held and it appearing that the purposes for which applicant wishes to issue the bonds or notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Plumas Light and Power Company be given authority and hereby is given authority to issue $15,000.00 face value of notes.

It is hereby further ordered that Plumas Light and Power Company be given authority and hereby is given authority to execute a mortgage or deed of trust securing the payment of said $15,000.00 face value of notes.

The authority herein granted is given upon the following conditions and not otherwise:

(1) Within fifteen days after the date of this decision applicant shall submit to this Commission for approval a copy of its proposed mortgage or deed of trust securing the payment of the notes herein authorized to be issued.

(2) Applicant shall use the proceeds from the notes to pay for the proposed extensions and improvements, the cost of which as shown in the foregoing opinion is estimated at $8,050.00, to pay a judgment of approximately $3,500.00 and to pay such other indebtedness as may be authorized by the Commission in a supplemental order.

(3) Applicant shall issue the notes herein authorized to be issued only after this Commission shall have issued a supplemental order finding that the foregoing conditions have been fulfilled to the satisfaction of the Commission, and setting forth the specific purposes for which the notes may be used, the minimum price for the sale of the notes and such other conditions as this Commission may set out.

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It is hereby further ordered that Plumas Light and Power Company shall file with the Railroad Commission the schedule of rates hereinafter set out and shall make such rates effective within thirty days after the date of this order, said rates being as follows:

One to 5 horsepower motors, single phase only, minimum rate $2.50 per horsepower per month.

First 72 kilowatt hours per horsepower installed, 5 cents per kilowatt hour per month.

All over, 4 cents per kilowatt hour per month.

Seven and one-fourth to 10 horsepower, 3-phase motors, minimum rate, $2.00 per horsepower per month.

First 72 kilowatt hours per horsepower installed, 4½ cents per kilowatt hour per month.

Second 72 kilowatt hours per horsepower installed, 3½ cents per kilowatt hour per month.

All over 144 kilowatt hours per horsepower installed, 2½ cents per kilowatt hour per month.

Anything above 10 horsepower will take a special rate to be agreed upon between the Plumas Light and Power Company and the consumer.

Dated at San Francisco, California, this 31st day of July, 1916.

DECISION NO. 3554.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE WAY COMPANY FOR AUTHORITY TO ABANDON SIX HUNDRED AND TEN FEET IN LENGTH OF SPUR TRACK ON ITS DEL REY LINE AT ELENDA STATION, IN THE COUNTY OF LOS ANGELES.

Application No. 2458.

Decided August 2, 1916.

REPORT OF THE COMMISSION.

Pacific Electric Railway Company having applied to this Commission for an order authorizing the abandonment and removal of six hundred and ten (610 feet of a certain spur track at Elenda Station on its Del Rey line in the county of Los Angeles, said track being shown on Blue Print M. W. H. 458, filed as applicant's Exhibit "A" in this proceeding; an inspection having been made, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted,

It is hereby ordered that the application be and the same hereby is granted.

Dated at San Francisco, California, this 2d day of August, 1916.

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Decision No. 3555.

IN THE MATTER OF THE APPLICATION OF CENTRAL CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF NINETEEN THOUSAND DOLLARS, PREFERRED STOCK OF THE PAR VALUE OF SIXTY-SEVEN THOUSAND DOLLARS AND COMMON STOCK OF THE PAR VALUE OF TWENTY-ONE THOUSAND, FIVE HUNDRED DOLLARS.

Application No. 2337.

Decided August 7, 1916.

Applicant authorized to issue $20,000.00 par value of its common stock to be sold at not less than par, and $29,500.00 par value of its preferred stock to be sold at not less than 90, proceeds thereof to be used for improvements and additions to its gas plants at Visalia and Porterville.

Report of the Commission.

FIRST SUPPLEMENTAL OPINION.

Whereas this Commission by Decision No. 3495, dated July 8, 1916, authorized applicant herein to issue $7,000.00 face value of its 6 per cent bonds at not less than 90 per cent of the face value thereof plus accrued interest; to issue $10,000.00 par value of its 6 per cent preferred stock at not less than 90 per cent of the par value thereof, and to issue $20,000.00 par value of common stock at not less than the par value thereof; and

Whereas the order authorizes the applicant to use the proceeds from the sale of its bonds to reimburse its treasury and in turn to pay bond interest, and to use the proceeds from the sale of its stock to pay indebtedness set forth in Exhibit "A" attached to the application; and

Whereas applicant in pursuance of Decision No. 3495, of July 17, 1916, filed a supplemental application requesting authority to issue either common or preferred stock, as may be determined by the Commission, to install additions and betterments, the cost of which is estimated at $46,590.95, as shown in the supplemental Exhibit "A" attached to the application herein; and

Whereas it appears that such additions and betterments are reasonably required by the applicant, and it appearing that the purposes for which it is proposed to issue the said stock are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Central California Gas Company be given authority and it is hereby given authority to issue $20,000.00 par value of its common capital stock at not less than the par value thereof.

It is hereby further ordered that Central California Gas Company be given authority and it is hereby given authority to issue $29,500.00 par value of its preferred capital stock at not less than 90 per cent of the par value thereof.

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The authority herein granted is granted upon the following conditions and not otherwise:

(1) The proceeds derived from the sale of the stock herein authorized to be issued shall be used by the applicant to pay for the bona fide cost of the proposed additions and betterments listed in the supplemental Exhibit 'A'' attached to the application, and summarized as follows:

Generator—Visalia	$5,830 00
Services—general	9,672 45
Trunk line—Visalia	6,260 00
Covering compression tanks—Visalia	407 00
Covering steam lines—Visalia	385 00
Compressor—Porterville	731 50
Holder at Porterville	11,556 00
Compressor No. 5—Visalia	3,685 00
Main extensions—various	8,064 00
Total	$46,590 95

(2) Central California Gas Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(3) The authority herein granted shall apply to such stock as shall have been issued on or before December 31, 1916.

(4) The authority herein granted is conditioned upon the payment of the fee prescribed under the Public Utilities Act.

Dated at San Francisco, California, this 7th day of August, 1916.

Decisions Nos. 3556, 3557, 3558, 3559 and 3560, grade crossings; not printed. See end of volume.

DECISION No. 3561.

IN THE MATTER OF THE APPLICATION OF OAKLAND, ANTIOCH AND EASTERN RAILWAY FOR PERMISSION TO ISSUE CERTAIN NOTES.

Application No. 2382.

Decided August 7, 1916.

Applicant authorized to renew for a period of not to exceed one year, promissory notes of an aggregate face value of $159,017.49. The issue and pledge of bonds securing certain of said notes also authorized.

Jesse H. Steinhart, for Applicant.

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REPORT OF THE COMMISSION.

In this application Oakland, Antioch and Eastern Railway asks authority to issue notes for a term of one year or less to refund the following notes:

Payee	Date	Term	Interest (per cent)	Face amount
C. A. Smith Lumber Co.	3/30/16	90 days	6	$1,050 00
C. A. Smith Lumber Co.	3/30/16	90 days	6	1,500 00
C. A. Smith Lumber Co.	3/30/16	90 days	6	1,600 00
C. A. Smith Lumber Co.	3/30/16	90 days	6	1,700 00
Westinghouse Elec. and Mfg. Co.	2/28/16	90 days	6	15,000 00
Westinghouse Elec. and Mfg. Co.	2/28/16	90 days	6	2,813 60
Westinghouse Elec. and Mfg. Co.	12/14/15	90 days	6	30,385 13
Westinghouse Elec. and Mfg. Co.	2/28/16	90 days	6	26,661 23
Western Electric Co.	3/30/16	90 days	6	2,019 18
J. G. White & Co.	1/26/16	6 mos.	6	7,500 00
J G. White & Co.	4/26/15	12 mos.	6	7,500 00
J. G. White & Co.	4/26/15	12 mos.	6	7,803 35
United States Steel Products Co.	11/ 5/15	3 mos.	6	53,485 00
Total				$159,017 49

Of the foregoing notes applicant reports the payment of the following as secured:

Payee	Face amounts	Bonds pledged as collateral
Westinghouse Electric and Manufacturing Co.	$15,000 00	25
Westinghouse Electric and Manufacturing Co.	30,385 13	50
Westinghouse Electric and Manufacturing Co.	26,661 23	42
United States Steel Products Co.	53,485 00	90

Applicant asks authority to pledge bonds in the foregoing amounts to secure payments of the notes which it will issue to Westinghouse Electric and Manufacturing Company and United States Steel Products Company. The issue of these notes and the pledging of the bonds has heretofore been authorized by the Commission.

The issue of the notes payable to C. A. Smith Lumber Company, to J. G. White & Company, to Western Electric Company, and the note of $2,813.60 payable to Westinghouse Electric and Manufacturing Company has not heretofore been authorized by the Commission. However, in Decision No. 3075, dated January 31, 1916, the Commission found that the proceeds from these notes were used for extensions and improvements. The testimony in this proceeding is to the same effect.

ORDER.

Oakland, Antioch and Eastern Railway having applied to this Commission for authority to issue notes in the sum of $159,017.49, to pledge bonds as collateral to secure the payment of some of the notes

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as set forth in the foregoing opinion, and a public hearing having been held and it appearing that the purposes for which applicant desires to use the proceeds from the notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Oakland, Antioch and Eastern Railway be and it is hereby authorized to issue promissory notes in the following amounts, at the rates of interest shown, and to the following payees:

Payee	Date	Term	Interest (per cent)	Face amount
C. A. Smith Lumber Co.	3/30/16	90 days	6	$1,050 00
C. A. Smith Lumber Co.	3/30/16	90 days	6	1,500 00
C. A. Smith Lumber Co.	3/30/16	90 days	6	1,600 00
C. A. Smith Lumber Co.	3/30/16	90 days	6	1,700 00
Westinghouse Elec. and Mfg. Co.	2/28/16	90 days	6	15,000 00
Westinghouse Elec. and Mfg. Co.	2/28/16	90 days	6	2,813 60
Westinghouse Elec. and Mfg. Co.	12/11/15	90 days	6	30,385 13
Westinghouse Elec. and Mfg. Co.	2/28/16	90 days	6	26,661 23
Western Electric Co.	3/30/16	90 days	6	2,019 18
J. G. White & Co.	1/26/16	6 mos.	6	7,500 00
J. G. White & Co.	4/26/15	12 mos.	6	7,500 00
J. G. White & Co.	4/26/15	12 mos.	6	7,803 35
United States Steel Products Co.	11/ 5/15	3 mos.	6	53,485 00
Total				$159,017 49

It is hereby further ordered that Oakland, Antioch and Eastern Railway be and it is hereby authorized to pledge as collateral twenty-five bonds to secure the payment of the $15,000.00 note payable to Westinghouse Electric and Manufacturing Company; fifty bonds to secure the payment of the $30,385.13 note payable to Westinghouse Electric and Manufacturing Company; forty-two bonds to secure the payment of the $26,661.23 note payable to Westinghouse Electric and Manufacturing Company; and ninety bonds to secure the payment of the $53,485.00 note payable to United States Steel Products Company.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The notes herein authorized to be issued shall be issued only for the purpose of refunding all or part of the notes now outstanding, payable to the above named payees.

(2) The notes herein authorized to be issued shall be made payable during a period not exceeding one year from the date of the maturity of the notes to be refunded. Applicant may issue and reissue said notes for a term of less than one year, provided that the aggregate of said terms shall not exceed one year in any instance from the date of the maturity of the notes refunded.

(3) As the principal of the notes herein authorized is paid off, bonds pledged as collateral shall be released in such an amount so that the face value of the notes shall never be less than approximately 60 per cent of the bonds pledged as collateral to secure the payment thereof.

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(4) Applicant shall report in writing to the Railroad Commission after the refunding of the foregoing notes or any or either of them, and the pledging of the bonds herein authorized, as required in General Order No. 24, said order being made a part of this order so far as the same is applicable.

(5) The authority hereby given to issue notes and bonds is contingent upon the payment of the fee specified in section 57 of the Public Utilities Act, as amended.

Dated at San Francisco, California, this 7th day of August, 1916.

DECISION No. 3562.

IN THE MATTER OF THE APPLICATION OF PENINSULAR RAILWAY COMPANY FOR AUTHORITY TO SELL CERTAIN PROPERTY.

Application No. 2487.

Decided August 8, 1916.

REPORT OF THE COMMISSION.

Peninsular Railway Company having applied to the Commission for authority to sell to Charles D. Blaney, in accordance with the terms and conditions of a form of deed attached to the application in this proceeding and marked "Exhibit A," the following described real property lying and being in the county of Santa Clara, state of California:

> Beginning in the southerly line of the Santa Clara and Saratoga road at a point S. 78° 31′ W. 477.2 feet from the northeast corner of lands of Mark Cornish; thence southerly on a curved line of 140 feet radius, parallel to and 10 feet distant from the center line of the track of the San Jose, Los Gatos Interurban Railway Company to a point on the eastern line of the Saratoga and Los Gatos road; thence along the easterly line of said road, N. 45° 58′ W. 18.0 feet and N. 44° 02′ W. 170 feet to the intersection of the southerly line of the Santa Clara and Saratoga road and the easterly line of the Saratoga and Los Gatos road; thence along the southerly line of said Santa Clara and Saratoga road N. 55° 15′ E. 110.4 feet and N. 78° 31′ E. 45.0 feet to the place of beginning; containing 0.224 acres, and being the same property conveyed by Mark Cornish and Ygnacia G. de Cornish, his wife, to said San Jose, Los Gatos Interurban Railway Company, a corporation, by deed dated December 5, 1903, and recorded December 19, 1903, in Book 29 of Deeds, at page 327, Records of said Santa Clara County.

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Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

To have and to hold all and singular the said premises, together with the appurtenances, unto the said party of the second part, his heirs and assigns forever.

And it appearing to the Commission that this is not a case in which a public hearing is necessary, and that the application should be granted,

It is hereby ordered that the application in this proceeding be and the same is hereby granted.

Dated at San Francisco, California, this 8th day of August, 1916.

DECISION No. 3563.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR A CERTIFICATE DECLARING THAT PUBLIC CONVENIENCE AND NECESSITY WILL REQUIRE THE EXERCISE OF A RIGHT OR PRIVILEGE UNDER FRANCHISES WHICH APPLICANT CONTEMPLATES SECURING, BUT WHICH HAVE NOT YET BEEN GRANTED TO IT.

Application No. 2431.

Decided August 10, 1916.

Applicant granted a preliminary certificate permitting the exercise of rights under franchises to be hereinafter obtained, authorizing the construction of gas transmission and distributing systems in certain portions of Los Angeles County, provided such extensions shall not invade territory at present served by another company.

LeRoy M. Edwards, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by Southern Counties Gas Company of California for an order preliminary to the issue of a certificate of public convenience and necessity for the exercise of certain rights under franchises to be granted by the county of Los Angeles.

Applicant by Decision No. 3360, dated May 22, 1916, has been authorized to acquire the gas properties of Southern California Edison Company. Applicant reports that all of the franchises possessed by the Southern California Edison Company in the county of Los Angeles were granted more than three years prior to the date of the application

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herein, and that the terms of said franchises make it impossible for applicant to make further extensions under the same. To enable it to install extensions, applicant in its own name and through its attorney, LeRoy H. Edwards, has filed with the board of supervisors of Los Angeles County applications for franchises, which cover substantially the same territory as the franchises formerly owned by Southern California Edison Company.

Applicant reports that it has no intention to invade territory now furnished with gas by any other public utility without an order from the Commission.

Inasmuch as applicant has not obtained its franchises, referred to in Exhibit "A" and Exhibit "B" attached to the application herein, it is obvious that this Commission can not issue a final order in this proceeding. I am willing, however, to recommend that the Commission issue a preliminary order declaring that public convenience and necessity require the exercise by applicant of the franchise rights contemplated in this application.

ORDER.

Southern Counties Gas Company of California having applied to this Commission for a preliminary order declaring that public convenience and necessity will require the exercise of rights and privileges under the franchises which applicant herein proposes to acquire from the board of supervisors of Los Angeles County, and a public hearing having been held, and it appearing to this Commission that public convenience and necessity will require the exercise of rights and privileges under franchises which have been applied for, but not yet secured, from the board of supervisors of Los Angeles County,

The Railroad Commission hereby declares that public convenience and necessity require that Southern Counties Gas Company of California construct gas transmission and distribution lines for the sale of natural and artificial gas in Los Angeles County under franchises to be hereafter granted by Los Angeles County; provided that this order is merely preliminary and that a final order will be issued after Southern Counties Gas Company of California shall have acquired said franchises, as aforesaid, from Los Angeles County, and that said final order will be issued upon such terms and conditions as this Commission may designate after Southern Counties Gas Company of California shall have obtained said franchises from Los Angeles County.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 10th day of August, 1916.

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DECISION NO. 3564.

IN THE MATTER OF THE APPLICATION OF COVINA CITY WATER COMPANY FOR AN ORDER AUTHORIZING IT TO SELL ITS WATER PLANT AND SYSTEM TO THE CITY OF COVINA, CITY OF COVINA JOINING IN SAID APPLICATION.

Application No. 2457.

Decided August 10, 1916.

Covina City Water Company authorized to transfer its water system to the City of Covina at the agreed price of $70,000.00, the city having filed a stipulation agreeing to assume all obligations at present resting against the water company as regards consumers residing outside the city limits.

S. M. Haskins, of *Gibson, Dunn & Crutcher*, for Covina City Water Company.

A. M. Pence, of *Gail & Pence*, for City of Covina.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is a joint application filed by Covina City Water Company and the City of Covina, a municipality, in which permission of this Commission is asked for the transfer of the water system owned by Covina City Water Company to the City of Covina, county of Los Angeles, California.

The City of Covina has lately had an investigation made by its engineer, F. E. Trask, covering the plant of Covina City Water Company. Mr. Trask made a report and fixed a price at which he would recommend that the water system be purchased. Subsequent to this report, a bond election was held and the bonds carried, which provided funds to purchase the water system owned by Covina City Water Company.

Covina City Water Company provided water service to approximately 734 different consumers, 190 of whom live outside of the City of Covina. The water supply is secured through ownership of stock in various mutual water companies.

On July 6, 1916, an offer was made to the City of Covina by Covina City Water Company to sell its entire holdings for $75,000.00, but subsequent negotiations reduced this price so that on July 18th the parties arrived at an agreed figure of $70,000.00.

Under Application No. 417 before this Commission, in June, 1913, the property of the Covina City Water Company was thoroughly examined by the engineers of the Commission to determine a proper basis for fixing rates. In Decision No. 1178, in above Application No. 417 (Opinions and Orders of C. R. R. C. 3: 1212), this Commission

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stated that $78,150.00 was the price which the engineers of this Commission had found as the estimated reproduction cost new of the physical property, less accrued depreciation, excluding meters and service connections. There have since been added some extensions of pipe line as well as new service connections and meters; but in view of the fact that the transfer is now being made at an agreed price for the entire plant, it is not necessary to list separately these additions, having in mind that accrued depreciation for three years will approximately offset the additions to capital. It is apparent, therefore, that $70,000.00 is not more than a reasonable price for the city of Covina to pay Covina City Water Company for its water system.

As a prerequisite to an order in this application this Commission required, at the time of the hearing, that the City of Covina file with this Commission a stipulation which would assure consumers living outside of the City of Covina that they would receive as good water service under the new ownership as had been rendered by Covina City Water Company heretofore. Such a stipulation has been filed by the City of Covina, in form satisfactory to the Railroad Commission.

Prior to the effective date of the Public Utility Act, Covina City Water Company had issued, and there are now outstanding, bonds amounting to $135,000.00. The stockholders and bondholders of this company are identical, the bonds above referred to being held by said stockholders, and it is therefore, not necessary to designate in the order the manner in which the $70,000.00 shall be apportioned to outstanding bonds and stock. Counsel for the Covina City Water Company assured the Commission at the hearing that the said bonds would be retired and the trust deed released, thereby transferring to the City of Covina the property under consideration free and clear of encumbrances, and such retirement of bonds and release of trust deed is hereby made a condition precedent to this order in this application becoming effective.

F. E. Trask, engineer for the City of Covina, stated at the hearing that the city plans to install larger mains to serve the district outside of the city, so that service to the consumers in such territory will be greatly improved. It is, therefore, evident that it will be to the best interests of the consumers residing outside of the City of Covina to have the transfer effected.

ORDER.

Covina City Water Company and City of Covina, a municipality, having made joint application to this Commission for permission to transfer the water system of Covina City Water Company to the City of Covina, and a hearing having been held, and it appearing as set

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forth in the opinion preceding this order, that the best interests and welfare of the community will be served by the transfer of the property,

It is hereby ordered that Covina City Water Company be authorized to sell to City of Covina, a municipality, the following described property for the sum of $70,000.00:

DESCRIPTION OF PROPERTY.

First: That certain parcel of real property situated in the county of Los Angeles, state of California particularly described as follows:

Beginning at the southeast corner of the southeast quarter of the northwest quarter of the southwest quarter of Section number seven (7), in township one (1) south, range nine (9) west, S. B. M. and running thence north along the east boundary line of said subdivision of said section number seven (7) one hundred and forty (140) feet; thence west parallel with the south boundary line of said subdivision of said section number seven (7) three hundred and twenty-three (323) feet; thence south parallel with said east boundary line of said subdivision of said section number seven (7) one hundred and forty (140) feet to the south boundary line of said subdivision of said section number seven (7); thence east along said south boundary line three hundred and twenty-three (323) feet to the place of beginning; containing an area of one and four one-hundredths acres of land, more or less, being same property described in deed from John O. Houser et ux., recorded in Book 1042, page 101 of Deeds, Records of said county.

Second: That certain parcel of real property situated in said county of Los Angeles particularly described as follows:

All that lot, piece or parcel of land situate, lying and being in the Phillips Tract, county of Los Angeles, state of California, and particularly bounded and described as follows: Beginning at the northeast corner of lot three (3), block one (1), subdivision of Phillips Tract, Rancho La Puente; running thence south 85 degrees 27 minutes west one hundred seventy and forty-two hundredths (170.42) feet; thence south two hundred seventeen and twenty-three hundredths (217.23) feet; thence east one hundred seventy (170) feet; thence north two hundred twenty-nine and twenty-three hundredths (229.23) feet to the place of beginning; said lot containing one (1) acre of ground, inclusive of road frontage and extending to the middle of the same; the San Bernardino road on the north, and also a right of way five feet wide for the purpose of constructing and maintaining a pipe line thereon or thereunder along the east line of the above described lot 3 in block 1. For a more particular description reference is hereby made to the map and plat of said Phillips Tract recorded in Book 9, pages 3 and 4, Miscellaneous Records of Los Angeles, California. Said land is subject to a right of way for the public to use as a highway that portion of said land included within the San Bernardino road.

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Third: The perpetual right and privilege to use, as right of way, for the purpose of constructing and maintaining thereon or thereunder a pipe line one and one-half (1½) inches in diameter for domestic water service on the real property now or formerly belonging to William Dewlaney and his wife, said strip of land running, extending and being particularly described as follows: Commencing at a point ninety (90) feet west of the northeast corner of lot six (6) in block fifteen (15) of the Phillips Tract, Rancho Puente, county of Los Angeles, state of California, and running southward to a point eighty-five (85) feet west of the southeast corner of the above described lot.

Fourth: The perpetual right and privilege to use, for the purpose of constructing and maintaining thereon and thereunder a pipe line for domestic water service and to construct and maintain thereon a pipe one and one-half (1½) inches in diameter on the real property now or formerly belonging to W. H. Hepner and his wife, said strip of land running, extending and being particularly described as follows, to wit: Commencing at a point ninety-five (95) feet southwest of the northeast corner of lot three (3), block fifteen (15), of the Phillips Tract, Rancho Puente, county of Los Angeles, state of California, and running southward to a point ninety (90) feet west of the southeast corner of the above described lot, being the same property conveyed to the Covina Land and Water Company by deed dated the 8th day of November, 1901, and recorded in Book 1522, page 277 of Deeds, Records of Los Angeles County.

Fifth: A perpetual right and privilege to lay and maintain a pipe line at least two and one-half feet below surface of ground, for the purpose of conducting water upon a strip of land five (5) feet wide, two and one-half (2½) feet on each side of the located line for pipe line as now staked on the ground, on the southeast quarter (SE. ¼) of the southeast quarter (SE. ¼) of section 12, township 1 south, range 10 west, S. B. M., said land being situate in the county of Los Angeles, state of California, and particularly described as follows: Commencing eight hundred and forty-five (845) feet south, measured along the center line of Grand avenue from the center line of Covina avenue, and running thence southwesterly and deflecting 45 degrees 10 minutes to the right from the center line of Grand avenue, six hundred and fifty-one and three-tenths (651.3) of way for the Covina branch of the Southern Pacific Railroad, being same property conveyed by deed from Western Land and Improvement Company recorded in Book 949, page 181 of Deeds, Records of Los Angeles County.

Sixth: Rights of way for the water pipe now laid and owned and used by Covina City Water Company to convey water to the City of Covina in the county of Los Angeles, state of California, from the reservoir of said Covina City Water Company, which is situated north of the Southern Pacific Railroad over and across the lands of said Southern Pacific Railroad Company where the same is situated in the south half (S. ½) of section twelve (12) and in the north half (N. ½) of section thirteen (13), township one (1) south,

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range ten (10) west, San Bernardino meridian, in the county of Los Angeles, state of California, from the point where said water pipe enters the said land of said Southern Pacific Railroad Company in said section twelve (12) opposite to engineer's station number 445 + 67.5 of the center line of said railroad, said point being four hundred and thirty (430) feet more or less west of the west line of the street known as Range avenue, crossing under the track of said railroad at or near engineer's railroad, and extending thence westerly at a distance of thirteen (13) feet south of and parallel with said center line of railroad to the point where said water pipe leaves the said land of said railroad company in said north half (N. ½) of section thirteen (13), opposite to engineer's station number 415 + 67.5 of said center line of railroad, a distance of three thousand (3,000) feet more or less;

Also the right to lay on said right of way and to maintain thereon such additional pipes, of the same or larger diameter than the pipe now laid, as the grantee may require, together with the right to enter upon said lands of the Southern Pacific Railroad Company and repair and replace the present pipe, and lay and maintain such new pipes upon said lands as said grantee may require.

Provided, however, and upon condition that said pipe or pipes shall be so laid beneath the surface of the ground as not to interfere with the proper use and operation of the railroad of said Southern Pacific Railroad Company.

Provided, also, that if at any time the grantee shall find it necessary to repair or replace the present pipe where said pipe crosses under the track of the said railroad at or near said engineer's station 445 + 51 of said center line of railroad or to lay new additional pipes under said railroad track at said place, then in such case all the work of such repairing or replacing present pipe or of laying new pipes under said track shall be done under the direction of the engineer or representative of said Southern Pacific Railroad Company, and the grantee shall pay unto the Southern Pacific Railroad Company all and whatever expenses and costs which shall be incurred by said railroad company in consequence of said work being done as above provided. Being all the property and rights acquired by deed from the Southern Pacific Railroad Company recorded in Book 1138, page 94 of Deeds, Records of said county.

Seventh: All water, water rights, water privileges, rights of way, franchises, reservoirs, reservoir sites, pipe lines, mains, laterals and attachments, aqueducts and distributing system now owned by said Covina City Water Company and now and heretofore used for distribution of water for irrigation and domestic use in the City of Covina in the county of Los Angeles, state of California, and in the country adjacent to said City of Covina, belonging to said Covina City Water Company.

Eighth: The entire right, title and interest of said Covina Water Company in and to that certain agreement in writing made by and between Covina Land and Water Company and Southern

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Pacific Company, dated April 14, 1898, a copy of which is attached as Exhibit "A" to the application.

Ninth: Two hundred and seventy (270) shares of the capital stock of the Covina Irrigating Company, a corporation; fifteen (15) shares of the capital stock of Columbia Land and Water Company, a corporation; sixty-one and one-half (61½) shares of stock of the Contract Water Company, a corporation; ten (10) shares of stock of Citrus Belt Water Company, a corporation.

Tenth: All pipes, hydrants, fittings, meters, tools, repairing materials and other supplies and equipment and all office books, maps, records, stationery and office supplies pertaining to said water plant and system.

It is hereby further ordered that the following conditions be satisfied before permission for the transfer is valid:

That Covina City Water Company cancel its outstanding bonds amounting to $135,000.00 and release the trust deed under which said bonds were issued, and that Covina City Water Company convey the property herein specified free from all encumbrances except taxes for the current year.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 10th day of August, 1916.

DECISION No. 3565.

IN THE MATTER OF THE APPLICATION OF NORTH GLENDALE DISTRIBUTING COMPANY TO SELL CERTAIN PROPERTY TO CITY OF GLENDALE, THE CITY JOINING IN THE APPLICATION.

Application No. 2318.

Decided August 10, 1916.

Applicant authorized to transfer a portion of his water system to the City of Glendale for the sum of $2,258.50, the city to stipulate that it agrees to furnish as good service as was heretofore rendered by applicant.

W. E. Evans, for City of Glendale.

N. C. Kelley, for North Glendale Distributing Company.

REPORT OF THE COMMISSION.

This is a joint application in which the City of Glendale seeks to acquire a portion of a domestic water system serving a district known as Casa Verdugo, lately annexed to the City of Glendale.

North Glendale Distributing Company is owned by N. C. Kelley and the entire system supplies about one hundred and ten families with

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water. By this application, permission is sought to sell only a portion of the system. The system is composed of several distributing mains installed by real estate promoters, together with connecting lines laid by Mr. Kelley. Water is secured from the same source as that from which the City of Glendale receives its supply, namely, the Verdugo Canyon.

The City of Glendale has lately annexed a portion of Casa Verdugo and has extended about two thousand (2,000) feet of six-inch and four-inch cast-iron pipe in order to furnish fire protection to the district. These lines being laid, connections for furnishing domestic service can readily be attached and the service much improved. The City of Glendale will charge a rate of one dollar ($1.00) for one thousand cubic feet. The existing charge made by Kelley for the same quantity of water is one dollar and fifty one-hundredths ($1.50).

Applicants have worked together in this matter, taking an inventory of the property to be transferred, and have arrived at a figure of two thousand two hundred and fifty dollars ($2,250.00). The unit prices used have been consistent with the amounts paid by City of Glendale when purchasing other water systems within the city. Our hydraulic engineers have checked over the inventory and appraisal submitted at the hearing and find the same to be reasonable. The approximate lengths of the several distributing lines are as follows:

2,155	lineal feet of 1½-inch pipe
4,001	lineal feet of 2½-inch pipe
310	lineal feet of 3 -inch pipe
1,022	lineal feet of 4 -inch pipe
Total, 7,488	lineal feet.

To these pipe lines there are attached seventy-three (73) service connections, mostly metered. Subsequent to the date of the appraisal, applicants found that one meter had been omitted and agreed that eight and fifty one-hundredth dollars ($8.50) should be added to the consideration previously specified in the application.

The City of Glendale desired to begin service to this district as of July 1st, and we see no reason why the transfer of consumers from North Glendale Distributing Company to City of Glendale can not be effective as of that date.

It is for the general welfare of the residents of Casa Verdugo district that the transfer be made, both from the consideration of better service, fire protection and domestic supply, and also the lower rates which will prevail under the municipal management, but we will request that a stipulation be filed which will insure as good, or better, service being rendered to residents of Casa Verdugo as has been given in the past.

There was submitted with the application a copy of a bill of sale and conveyance by which N. C. Kelley transfers to City of Glendale certain

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property. While no mention is made of the property being unencumbered, yet we desire to specify in the order herewith that any encumbrances which may exist upon this distributing system be removed at the time payment is made for the property. Mr. Kelley, at the time of the hearing, agreed to this, and stated that he would furnish a certificate showing the title vested in himself and under no encumbrances.

ORDER.

North Glendale Distributing Company having made joint application to this Commission for permission to transfer certain property to the City of Glendale, and said City of Glendale joining in said application, and a hearing having been held in relation thereto,

It is hereby ordered that North Glendale Distributing Company may transfer to City of Glendale, a municipal corporation, for the consideration of two thousand two hundred fifty-eight and fifty one-hundredth dollars ($2,258.50) the property described as follows, the same being a part of the water system belonging to N. C. Kelley and Grace W. Kelley, his wife, located in and adjacent to the City of Glendale, county of Los Angeles, state of California, and more particularly described as follows, to wit:

> The four-inch riveted pipe line in the alley west of Viola street, commencing at the north line of Loraine street, thence to Stocker street and thence along Stocker street to San Rafael avenue, and the two-inch standard screw pipe line on Gilbert street from San Rafael avenue to Fountain place, and thence in and following the alley west of Central avenue to Park avenue. Also all pipe lines which are a portion of N. C. Kelley's distributing system in the district lying west of Melrose avenue, including all valves, meters, service connections and fittings now attached to and a part of the above distributing system and also a certain lot of eight-inch standard screw pipe approximately one hundred feet in length. Also all the right, title and interest of N. C. Kelley and Grace Kelley, his wife, in and to all rights of way, easements, and franchises owned by them in connection with the above described distributing system and more specifically referred to in that certain conveyance made to N. C. Kelley on or about April 4, 1912, and recorded on or about the 29th day of October, 1912, in Book 5269, page 43 of Deeds, Records of Los Angeles County, California.

It is hereby further ordered that City of Glendale file with this Commission within fifteen (15) days a stipulation under which City of Glendale will agree to furnish as good service as has heretofore been rendered by N. C. Kelley; and

It is further ordered that within thirty (30) days applicants will file with this Commission a copy of the deed conveying the property transferred; and

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It is further ordered that all property so transferred shall be transferred unencumbered to the City of Glendale.

Dated at San Francisco, California, this 10th day of August, 1916.

DECISION NO. 3566.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA TO CONSTRUCT A PIPE LINE AND FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY WILL REQUIRE THE CONSTRUCTION OF THE SAME.

Application No. 2430.

Decided August 10, 1916.

Applicant granted a certificate permitting the construction of a natural gas transmission main from Brea to its gas plant at Pomona.

LeRoy M. Edwards, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

In this application, Southern Counties Gas Company of California asks the Commission for an order authorizing it to construct a fourteen mile, 8-inch natural gas transmission line from Brea Canyon Oil Company's pumping station at Brea in a northerly direction on the Brea Canyon road to the San Bernardino boulevard, near Lemon, a distance of about seven (7) miles, thence northeasterly along said boulevard to applicant's gas plant at Pomona, an additional distance of seven (7) miles.

By Decision No. 3360, dated May 22, 1916, applicant herein was authorized to acquire the gas properties of Southern California Edison Company, with the exception of its properties located in Santa Barbara County. Included in the properties thus acquired is a gas plant and distributing system located at Pomona. Applicant now desires to bring to the city of Pomona a supply of natural gas. It is negotiating for the purchase of natural gas from Brea Oil Company. As soon as the contract is reduced to final form, applicant will file a copy with the Commission.

Applicant estimates the cost of the proposed pipe line at approximately $85,000.00. Hereafter applicant proposes to file an application for authority to issue bonds to pay 80 per cent of the cost of the pipe line. Said application will contain a statement showing in detail the cost of the pipe line.

The pipe line which applicant proposes to construct will be located in Orange and Los Angeles counties. Applicant has secured the necessary

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franchise from the board of supervisors of Orange County and through its attorney has filed an application for the necessary franchise with the board of supervisors of Los Angeles County.

I herewith submit the following order:

ORDER.

Southern Counties Gas Company of California having applied to this Commission for an order authorizing it to construct a fourteen mile 8-inch natural gas transmission line, as set forth in the foregoing opinion,

And a hearing having been held and it appearing that public convenience and necessity will require the construction of the proposed transmission line,

It is hereby ordered that Southern Counties Gas Company of California be granted authority and it is hereby granted authority, to construct an eight inch natural gas transmission line from Brea Canyon Oil Company's pumping station at Brea in a northerly direction along the Brea Canyon road to the San Bernardino boulevard, near Lemon, a distance of about seven (7) miles, thence northeasterly along said boulevard to applicant's gas plant at Pomona, an additional distance of seven (7) miles.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The authority herein granted shall be construed as preliminary, in so far as it relates to the construction of that portion of the pipe line located in Los Angeles County.

(2) Applicant shall file with this Commission as soon as acquired, a copy of the franchise granted by the board of supervisors of Los Angeles County, under which the transmission line is to be installed, whereupon the Railroad Commission will issue a final order.

(3) As soon as executed, applicant shall file with this Commission a copy of its contract relating to the purchase of natural gas from Brea Oil Company.

(4) The authority herein granted shall not be construed as an approval of the estimated cost of the pipe line, reported at $85,000.00.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 10th day of August, 1916.

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DECISION No. 3567.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF A RIGHT OR PRIVILEGE GRANTED TO APPLICANT BY ORANGE COUNTY UNDER A FRANCHISE.

Application No. 2429.

Decided August 10, 1916.

Applicant granted a certificate permitting the exercise of rights obtained under a franchise secured from the county of Orange authorizing the construction of gas distributing systems in said county.

LeRoy M. Edwards, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

This is an application by Southern Counties Gas Company of California for an order declaring that public convenience and necessity require applicant herein to exercise the rights and privileges granted by Ordinance No. 136, approved by the board of supervisors of Orange County, on May 16, 1916.

By Decision No. 3360, dated May 22, 1916, the Commission authorized applicant herein to purchase the properties of Long Beach Consolidated Gas Company and the gas properties of Southern California Edison Company.

Applicant reports that it has been for some time supplying gas to various cities and rural communities in Orange County under and by virtue of certain franchises granted by said Orange County by its ordinances Nos. 70, 84 and 123; that Ordinance No. 70 was granted on June 18, 1907, and Ordinance No. 84 on May 25, 1911; that more than three years have elapsed since the passage of said ordinances, and that it is no longer possible for applicant herein to make new extensions in the territory covered by said franchises. To enable it to install extensions, additions and betterments to its plant, applicant has recently acquired a new franchise (Ordinance No. 136) from the board of supervisors of Orange County. This franchise covers substantially the same territory as covered by the aforementioned ordinances. It provides that the work of constructing and laying the system of pipes shall be commenced in good faith within not more than four months from the date of the granting of the franchise, and shall be prosecuted diligently and in good faith so as to meet and fill the reasonable needs of the inhabitants of the territory for the service of which the franchise is granted.

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I recommend that this application be granted subject to the conditions set forth in the following order:

ORDER.

Southern Counties Gas Company of California having applied to this Commission for a certificate that public convenience and necessity require the exercise by it of the rights and privileges conferred under the terms of a franchise (Ordinance No. 136) by the board of supervisors of Orange County on May 16, 1916, and a hearing having been held and this Commission having been advised in the premises,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by Southern Counties Gas Company of California of the rights and privileges conferred by the franchise (Ordinance No. 136) by the county of Orange on May 21, 1916; provided that Southern Counties Gas Company of California shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that Southern Counties Gas Company of California, its successors and assigns, will never claim before the Railroad Commission, or any court or other public body, a value for said rights and privileges in excess of the actual cost to Southern Counties Gas Company of California of acquiring said rights and privileges, which cost is represented by Southern Counties Gas Company of California to have been $300.00, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation, in form satisfactory to the Railroad Commission has been filed herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 10th day of August, 1916.

DECISION NO. 3568.

THE SIXTEENTH STREET IMPROVEMENT CLUB

vs.

THE CITY COMMISSIONERS OF THE CITY OF SACRAMENTO, CALIFORNIA, AND SOUTHERN PACIFIC COMPANY.

Case No. 946.

Decided August 10, 1916.

REPORT OF THE COMMISSION.

Complainant in the above entitled matter having through its attorney asked permission to withdraw this complaint,

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It is hereby ordered that this complaint be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 10th day of August, 1916.

DECISION NO. 3569.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO ABANDON AGENCY AT NELSON STATION ON THE SACRAMENTO DIVISION.

Application No. 1703.

Decided August 10, 1916.

REPORT OF THE COMMISSION.

SUPPLEMENTAL ORDER.

Southern Pacific Company having in this proceeding asked permission to discontinue the agency now maintained at the station of Nelson in Butte County, on its Sacramento division, and a hearing having been held and the Commission having on June 28, 1915, made an order directing the company to make and keep an accurate, detailed account of the freight and passenger business transacted at said station, and of the expense of maintenance of an agent at said station for a period of one year from the effective date of said order, for the purpose of determining whether there is justification for the discontinuance of this station, and Southern Pacific Company having on August 2, 1916, advised the Commission that the company no longer desires to discontinue this station, and it appearing that accordingly it is not necessary for the company to keep account of the passenger and freight business and of the expense of maintaining an agent at said station, as directed by said order of the Commission,

It is hereby ordered that the order of the Commission heretofore made by this Commission on June 28, 1915, be and the same is hereby set aside, and that this application be and the same is hereby denied.

Dated at San Francisco, California, this 10th day of August, 1916.

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Decisions Nos. 3570 and 3571, grade crossings; not printed. See end of volume.

DECISION No. 3572.

IN THE MATTER OF THE APPLICATION OF GIOVANNI PATRONI FOR APPROVAL OF A WHARF FRANCHISE.

Application No. 2408.

Decided August 10, 1916.

Permit for a wharf at Half Moon Bay approved, provided that no value in excess of the actual cost shall ever be claimed for such permit for rate fixing or other purposes.

Franklin Swart, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Giovanni Patroni for approval by the Railroad Commission, under section 2906 of the Political Code of the state of California, of an order of the board of supervisors of San Mateo County authorizing said Giovanni Patroni to construct a wharf or pier at that portion of Half Moon Bay, San Mateo County, known as Princeton-by-the-Sea.

A public hearing of said application was held on August 3, 1916. From the evidence it appears that on March 20, 1916, applicant duly petitioned the board of supervisors of the county of San Mateo for an order permitting him to construct and maintain a pier or wharf approximately 500 feet long extending into the northerly portion of Half Moon Bay, at said settlement of Princeton-by-the-Sea.

Applicant procured the approval of the war department of the United States to construct the said wharf or pier, and on May 19, 1916, said board of supervisors passed an ordinance, entitled Ordinance No. 279, granting applicant authority to build the same.

It further appears that applicant thereupon proceeded to construct said pier and entirely completed it before he realized that it was necessary for him to obtain the approval of this Commission as well as authority from the board of supervisors. It clearly appears that applicant acted in good faith throughout and that he would not have constructed said pier without first having applied to this Commission if he had been conversant with the above mentioned section of the Political Code. Applicant has built said pier principally to furnish the guests at the hotel, which he conducts at Princeton, a place upon which to fish and a means of access to rowboats and launches; but he also allows the public free use of the wharf for the same purposes. He has secured from the Shore Line Investment Company, a corporation owning the land from which said pier extends seaward, the right to construct and

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maintain the same for a period of fifteen years for the consideration of $1.00 per year.

We are of the opinion that the construction of this pier will benefit the community of Princeton-by-the-Sea and that the application should be granted.

ORDER.

Giovanni Patroni having applied to the Railroad Commission for approval of Ordinance No. 279 of the board of supervisors of the county of San Mateo, state of California, authorizing said Giovanni Patroni to locate and construct a pier and wharf in that portion of Half Moon Bay at or near what is known as Princeton-by-the-Sea, and a public hearing having been held upon said application and it appearing to this Commission for the reasons set forth in the foregoing opinion that the application should be granted,

It is hereby ordered that the above mentioned ordinance be and the same is hereby approved by the Railroad Commission of the state of California.

The approval herein granted is granted subject to the condition that said Giovanni Patroni shall within sixty days from the date hereof file with this Commission a stipulation duly agreeing that he, his successors and assigns, will never claim before the Railroad Commission of the state of California or any other public authority, any value for the said franchise granted by said county of San Mateo in excess of the actual cost thereof, and shall have secured from this Commission a supplemental order herein declaring that such stipulation, satisfactory to this Commission, has been filed.

Dated at San Francisco, California, this 10th day of August, 1916.

DECISION NO. 3573.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY FOR APPROVAL OF A CERTAIN AGREEMENT ENTERED INTO BY AND BETWEEN PACIFIC GAS AND ELECTRIC COMPANY AND GEORGE A. VAN SMITH AND J. C. ELLER.

Application No. 2475.

Decided August 10, 1916.

Contract for service to two prospective consumers, which provides for a specified minimum annual bill, approved.

Charles P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

This is an application by Pacific Gas and Electric Company, a corporation, for an order approving a certain agreement entered into by

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said corporation with George A. Van Smith and J. C. Eller, by the terms of which said corporation proposes to extend its distributing line to the premises of said Van Smith and said Eller in order to supply them with electricity for lighting purposes. In consideration therefor said Van Smith and said Eller each guarantee said corporation that he will pay for a certain annual minimum of electric energy.

The contract appears to us, under the circumstances of this particular case, to be entirely fair, both from the point of view of the public service company and of the consumers, and we are of the opinion that the application should be granted.

ORDER.

Pacific Gas and Electric Company having applied to this Commission for approval of a certain agreement entered into by and between it and George A. Van Smith and J. C. Eller, and a public hearing having been held, and it appearing to this Commission that for the reason set forth in the foregoing opinion the contract should be authorized,

It is hereby ordered that Pacific Gas and Electric Company be and the same is hereby authorized to enter into a certain contract for the service of electricity to George A. Van Smith and J. C. Eller in form and substance substantially as set forth in the instrument designated as Exhibit "A," annexed to the application in the above entitled matter.

The authority herein granted is granted subject to the condition that applicant shall file with this Commission two copies of the contract herein authorized, within sixty (60) days of the date of this order.

Dated at San Francisco, California, this 10th day of August, 1916.

DECISION NO. 3574.

J. B. CULPEPPER

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 897.

Decided August 12, 1916.

Complainant petitions for the award of reparation covering excess charges alleged to have been collected upon shipments of manure, El Centro and Calexico to Riverside.

Held, That when a carrier furnishes a car smaller than the class of car ordered by a shipper, charges shall be based on the actual weight of the shipment and not on the minimum weight per car provided for in the tariff. It appearing that of

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the cars furnished, six were smaller than those ordered, rates should have been based upon actual weight and not upon the minimum carload weight. Reparation in the sum of $121.26 ordered.

Walter C. Davison, for Complainant.

George D. Squires, for Defendant.

REPORT OF THE COMMISSION.

This is an action brought by J. B. Culpepper, complainant, against the Southern Pacific Company, for reparation on alleged excess freight charges collected by defendant from complainant and his assignor in the total sum of $454.66, together with interest upon the same.

A public hearing was held in Riverside on March 3, 1916. At the close of the hearing the matter was submitted upon briefs to be filed by the respective parties. These briefs have now been filed and the case is ready for decision.

From the evidence it appears that complainant has been for some time past engaged in the business of buying manure in the back country and having it shipped to him at Riverside, where he sells it to various orange growers. Between March, 1914, and February, 1915, inclusive, complainant or his assignor shipped to Riverside, via defendant's railroad, twenty-three cars of manure from El Centro and two cars of manure from Calexico, upon which he or his assignor paid the freight.

There are two tariffs under which complainant might have had the commodity shipped, one under the heading of manure, upon which the rate from El Centro to Riverside is $2.18 per ton, with a minimum carload weight of 40,000 pounds; the other under the heading of fertilizer, upon which the rate between the points above mentioned is $3.04 per ton, with a minimum carload weight of 30,000 pounds.

Complainant forwarded the consignments as manure under the provisions of Item 47 of Southern Pacific Company Local Freight Tariff No. 726, C. R. C. No. 1613, which specifies a minimum carload weight of 40,000 pounds. This tariff is governed by Pacific Freight Tariff Bureau Exception Sheet No. 1-D, and when cars are furnished at variance with shippers' orders at carrier's convenience, Rule No. 6 applies. This rule, subdivision No. "D," reads as follows:

> "(APPLIES ON BULK FREIGHT ONLY—I. E., FREIGHT WHICH CARRIERS WILL NOT ACCEPT IN BULK FOR LESS CARLOAD SHIPMENT.) When car of smaller dimensions or capacity is furnished and loaded to its full visible capacity, actual weight will apply, if not provided by tariffs lawfully on file with the Interstate Commerce Commission and state railroad commissions, but not to exceed the marked weight capacity of car, will apply, unless actual weight is greater."

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In each case it appears that shipper ordered from defendant 40-foot gondola cars, the largest car available for this class of freight used by carriers operating west of Chicago. In all but six cases defendant supplied a car of the size ordered or a larger car, and there is no question but that under the provisions of the tariff and of Rule 6 of the Exception Sheet that the freight charges for the six small cars should have been based upon the actual weight of the manure and not on the minimum weight of 40,000 pounds per car.

The excessive freight charges paid by complainant or his assignor over the rate based upon the actual weights amounted in all to $121.26, and to this amount we find that complainant is entitled to reparation, together with interest thereon at the rate of seven (7) per cent per annum from date of payment of bills.

A segregated statement of the reparation due is as set forth below:

Car number	Length of car	Minimum weight	Rate	Amount charged	Actual weight	Correct charge	Overcharge
S P. —57243	36′ 4″	40,000	*$2 27	$45 40	21,900	$28 26	$17 14
S P. —52119	35′ 9″	40,000	2 18	43 60	22,820	24 87	18 73
L. S. M. S.—28632	33′ 6″	40,000	2 18	43 60	18,020	19 64	23 96
L. S. M. S.—38885	36′ 6″	40,000	2 18	43 60	24,060	26 23	17 37
S P. —64394	36′ 0″	40,000	2 18	43 60	23,120	25 20	18 40
G. H. —40273	34′ 7½″	40,000	2 18	43 60	16,460	17 94	25 66
Totals				$263 40		$142 14	$121 26

*From Calexico—other cars from El Centro.

As to the remainder of the shipments, we find that defendant collected only the legal rate as established by its tariff on file with this Commission. This proceeding is brought solely upon the theory of overcharge and no question of the reasonableness of the rate or of the minimum weight of 40,000 pounds is raised by the pleadings. Even if this question were properly in issue we doubt whether, under all the conditions, this Commission would be justified in requiring the defendant to establish a lower carload minimum.

This case is a hard one from complainant's point of view as, according to testimony, he would not have made these shipments had he known that the charges were to be computed on the basis of actual weight. This may well be a case where the railroad company can not afford to haul the freight at a low enough rate to justify complainant continuing in the business of shipping manure to Riverside from the Imperial Valley points, but the Commission has come to the conclusion that it can give Mr. Culpepper no further relief.

ORDER.

A public hearing having been held in the above entitled case and oral and documentary evidence having been introduced, and the matter

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having been duly submitted upon briefs of the respective parties, and being now ready for decision,

The Railroad Commission hereby finds as a fact that defendant charged and received from complainant for carload shipments of manure forwarded from Calexico and El Centro to Riverside between March 1, 1914, and February 5, 1915, inclusive, the sum of $121.26 in excess of the lawful charges which defendant should have collected.

Basing our conclusions on the foregoing findings of fact and on the further findings of fact contained in the opinion which precedes this order,

It is hereby ordered that defendant, Southern Pacific Company, be and it is hereby authorized and directed to pay unto complainant, J. B. Culpepper, the sum of one hundred twenty-one and twenty-six hundredths (121.26) dollars, with interest thereon at the rate of seven (7) per cent per annum from the dates upon which the overcharges were collected, as reparation on account of rates charged for the transportation of manure from Calexico and El Centro to Riverside, which rates so charged have been found to be unlawful.

Dated at San Francisco, California, this 12th day of August, 1916.

DECISION NO. 3575.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY FOR AUTHORITY TO ISSUE TWENTY-FIVE THOUSAND DOLLARS FACE VALUE OF BONDS.

Application No. 2303.

Decided August 12, 1916.

Applicant authorized to issue $25,000.00 face value of 6 per cent bonds, to be sold at not less than 94, proceeds thereof to be used partly for extensions and improvements, the balance to discharge note and floating indebtedness. In connection therewith applicant's attention is called to the fact that it was heretofore directed to maintain an annual sinking or depreciation fund of $2,500.00, which it does not appear to have done. Recommendation made that utilities should keep such a reserve under a separate and distinct account apart from any other funds which they might maintain.

Charles P. Cutten, for Applicant.

REPORT OF THE COMMISSION.

As amended, this application of California Telephone and Light Company, a California corporation, requests of this Commission authority to issue additional bonds and capital stock of a total face value of

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$25,000.00, said securities to consist at the option of applicant either of its preferred stock, to be issued so as to net applicant not less than 85 per cent of the par value thereof, or of applicant's first mortgage 6 per cent bonds, to be issued so as to net applicant not less than 94 per cent of their face value, or of both such preferred stock and bonds to be issued at the respective prices above set forth, but not exceeding in aggregate the face value of $25,000.00.

Applicant desires to use the proceeds from the sale of said stock and bonds for reimbursing its treasury for materials and supplies used in making certain additions and betterments, for the acquisition of property, and for the construction and extension of its facilities. Applicant further alleges that it set forth in connection with Application No. 498, Decision No. 721 (reported in Vol. 2, Opinions and Orders of the Railroad Commission of California, page 1002), a certain schedule marked Exhibit "J," showing a detailed description of the construction contemplated by said company, together with its estimated cost; that said Exhibit "J" showed a total contemplated construction in the telephone and electric departments of the said company, amounting to $265,900.00; that between March 1, 1913, and March 1, 1916, applicant has expended in such additions and betterments to its electric and telephone plants the sum of $175,033.33; and that a portion of the cost to applicant of making such additions and betterments has been obtained as follows:

Sale of bonds under Decision No. 721	$15,225 70
Sale of preferred stock under Decision No. 1086	34,402 83
Sale of bonds under Decision No. 1086	95,641 17
Total	$145,269 70

The balance of the cost of making said additions and betterments, amounting to $29,763.63, has, according to the application, been paid from income or is represented by current bills payable for materials and supplies.

A public hearing was held at Santa Rosa June 27, 1916. Applicant submitted the following balance sheet as of May 31, 1916:

Assets.

Capital assets.		
Fixed capital prior to January 1, 1916		$1,505,678 93
Capital expenditures since January 1, 1916:		
Telephone construction	$1,856 23	
Electric construction	9,020 70	
General	487 33	
Construction in progress	1,234 18	
		11,323 78
Total		$1,517,002 71

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Current assets.		
Accounts receivable, not due	$4,924 51	
Bills and accounts receivable, due	21,258 64	
Cash	7,628 87	
Material and supplies	13,997 79	
Miscellaneous	4,073 86	
Total		51,883 67
Deferred debits		57,253 36
Total		$1,626,139 74

Liabilities.

Capital liabilities.		
Common stock	$766,000 00	
Preferred stock (6 per cent cumulative)	340,586 66	
Bonds, first mortgage 6 per cent	450,000 00	
Total		$1,556,586 66
Current liabilities.		
Bills payable	$1,395 18	
Accounts payable, not due	1,500 51	
Accounts due and payable	27,912 58	
Customers' deposits	464 95	
Interest accrued, not due	4,583 30	
Service billed in advance	5,235 56	
Miscellaneous	693 73	
Total		41,785 81
Deferred credits		$14,977 20
Surplus		12,790 07
Total		$1,626,139 74

Applicant submitted its income statement for the years 1913, 1914 and 1915 as follows:

	1915	1914	1913
Operating revenues	$124,109 83	$118,697 83	$91,892 74
Operating expenses	76,110 69	65,526 70	54,603 01
Net operating revenues	$47,999 14	$53,171 13	$37,289 73
Other income—			
Interest	$268 16		
Miscellaneous	252 32	$639 18	$680 32
Totals	$520 48	$639 18	$680 32
Gross corporate income	$48,519 62	$53,810 31	$37,970 05
Deductions—			
Bond interest	$25,271 22	$22,211 51	$8,647 01
Other interest	268 23	113 83	7,188 88
Uncollectible bills	1,067 71	1,325 00	1,929 10
Rent	1,198 85	1,281 89	
Amortization of discount	1,320 00	960 00	738 33
Miscellaneous	180 00		
Totals	$29,306 01	$26,222 23	$18,503 32
Net income	$19,213 61	$27,588 08	$19,466 73

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It will be noted from this statement that no proper allowance is made for depreciation.

Applicant further submitted the following income statement for the first five months of 1916, as compared with the similar portion of 1915:

Gross revenue	1916	1915	Increase		Decrease	
			Amount	Per cent	Amount	Per cent
Telephone	$19,327 06	$18,924 28	$402 78	.021		
Electric	26,754 73	25,330 30	1,424 43	.056		
Miscellaneous	340 38	205 77	134 61	.65		
Totals	$46,422 17	$44,460 35	$1,961 82	.044		
Expenses, including taxes	29,691 67	27,607 43	2,084 21	.075		
Net revenue	$16,730 50	$16,852 92			$122 42	.007
Interest accrued	11,366 02	10,618 86	$747 16	.07		
Balance	$5,364 48	$6,234 06			869 58	.13
Amortization, debt, discount, depreciation	1,704 40	2,034 40			330 00	.16
Balance	$3,660 08	$4,199 66			$539 58	.12

From the testimony it appears that the line loss, as evidenced by the difference between the electric energy purchased by applicant at wholesale and that distributed by it at retail, is unusually large. We believe that a saving could be effected in this respect, and we suggest that applicant take such steps as may be advisable to avoid any unnecessary losses in the future.

Applicant was ordered by this Commission in 1913, as a condition precedent to being permitted to issue bonds for raising the $75,000.00 which applicant desired to pay to the stockholders of Cloverdale Light and Power Company for the property of that company, as follows (Decision No. 721, supra):

> "California Telephone and Light Company shall set aside from income each year, during the next ten years, beginning with the calendar year 1914, the sum of $2,500.00, in addition to such sums as it may be required to set aside for sinking fund or depreciation under its mortgage and deed of trust and in addition to such sum as the Commission may hereafter require it to set aside for depreciation. Said sum of $2,500.00 thus set aside annually shall be used either for the retirement of applicant's bonds to the amount of $25,000.00 before 1925, in the manner provided under its mortgage for sinking fund purposes, or shall be invested annually in additions and betterments to its properties; and if the money is invested in additions and betterments to its properties, it shall not be urged as a basis upon which to apply for an issue of either stock, bonds, notes or other evidences of indebtedness."

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Applicant has apparently not complied with this order. We are of the opinion that this reserve should be kept under a distinct account apart from and in addition to all other funds or reserves; and we shall expect applicant to comply promptly with this suggestion.

The construction and extension work included in the schedule designated as Exhibit "J" filed with Application No. 498 and authorized in this Commission's Decision No. 721 (supra), and the progress thus far made by the same according to applicant's testimony are as follows:

(1) Cloverdale District.

	Contemplated expenditure	Work done
Electric.		
Preston Extension	$2,850 00	
Cloverdale Extension, east side	2,850 00	Completed.
Alder Glenn Extension	2,850 00	Completed.
Oriental Extension	9,500 00	Completed.
Geyserville, east side	1,900 00	Completed.
Geyserville, east south	9,500 00	Partly completed.
Cozzens, North Dry Creek	3,800 00	Completed.
Dry Creek to Healdsburg	9,500 00	Completed.
West Dry Creek	1,900 00	
Lower Dry Creek	7,600 00	Completed.
Sotoyome	950 00	Completed.
West Windsor, south	950 00	Completed.
East Windsor to Chisholms	2,850 00	Completed.
	$57,000 00	
Substation at Geyserville (including land)	10,000 00	
300 services	6,000 00	Installed.
Miscellaneous	5,000 00	Partly completed.
Total electric	$78,000 00	
Telephone.		
Ornbaun Valley Extension	$1,000 00	Completed.
Cloverdale, Pieta and Hopland	1,500 00	
Miscellaneous	500 00	Completed.
Total telephone	$3,000 00	
Total Cloverdale District	$81,000 00	

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(2) Russian River and Sonoma Districts.

	Contemplated expenditure	Work done
Electric.		
Forestville to Waller Ranch	$2,850 00	
Spring Hill to Freestone	2,850 00	
Freestone to Bodega	4,750 00	
Cotati to Denman	2,850 00	Under construction.
Cotati to Roberts et al.	9,500 00	
Graton to Green Valley	2,850 00	Completed.
Occidental to Pine Flat	1,900 00	Partly completed.
Kenwood to Warm Springs	2,850 00	
Fulton to Mark West	1,900 00	Completed.
Extensions, Russian River	5,700 00	Partly completed.
	$38,000 00	
Substation at Sonoma	10,000 00	20% completed.
200 services	4,000 00	Installed.
Miscellaneous	5,000 00	
Total electric	$57,000 00	
Telephone.		
Additions to exchange equipment, Guerneville-Sonoma	$4,000 00	5% completed.
Extensions, toll lines	25,000 00	4% completed.
Miscellaneous	5,000 00	
Total telephone	$34,000 00	
Total Russian River and Sonoma districts	$91,000 00	

(3) Lake County District, Including Calistoga.

Telephone.		
Additions to exchange equipment	$4,000 00	
Extensions, toll lines	25,000 00	20% completed.
Miscellaneous	5,000 00	
Total	$34,000 00	

(4) Ukiah and Potter Valley District.

Electric.		
Cunningham to Riverside	$6,650 00	Completed.
Riverside to Potter Valley	7,600 00	Partly completed.
Riverside to Hemlock	4,750 00	
Cunningham, west	4,750 00	Work started.
Telmage, south along Russian River	4,750 00	Work started.
Potter City to Willits	14,400 00	Work started.
	$42,900 00	
100 services	2,000 00	20% installed.
Miscellaneous	2,000 00	
Substation near Riverside	6,000 00	Completed.
Automobiles for construction	5,000 00	Acquired.
Teams, wagons, harness for construction	2,000 00	Acquired.
Total Ukiah and Potter Valley District	$59,900 00	

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Summary.

(1)	Cloverdale District	$81,000 00
(2)	Russian River and Sonoma districts	91,000 00
(3)	Lake County District, including Calistoga	34,000 00
(4)	Ukiah and Potter Valley District	59,900 00
	Total	$265,900 00

Under all the circumstances we do not feel justified in authorizing the issue of any additional preferred stock at this time, nor the issue of bonds for the purpose of reimbursing applicant's treasury. We find, however, that applicant should be authorized to issue $25,000.00 face value of bonds for the purpose of paying that portion of its outstanding accounts incurred for the acquisition of property or for the construction, extension or improvement of its facilities or service, the remainder of the proceeds to be devoted to additions, extensions or improvements above set forth in the schedule heretofore referred to as Exhibit "J."

ORDER.

California Telephone and Light Company, a California corporation, having applied to the Railroad Commission for authority to issue additional securities of a total face value of $25,000.00, as set forth in the foregoing opinion, and a public hearing having been held, and it appearing to this Commission that the purposes for which the proceeds of the proposed bond issue, as authorized in this order, are to be used, are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted in part and subject to the conditions hereinafter set forth.

It is hereby ordered that applicant be and the same is hereby authorized to issue $25,000.00 face value of its first mortgage 6 per cent bonds maturing April 1, 1943.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) California Telephone and Light Company shall issue said bonds so as to net said company not less than 94 per cent of the par value of the principal thereof, in addition to accrued interest thereon.

(2) The proceeds of the bonds herein authorized to be issued shall be applied as follows:

(*a*) To refunding the following outstanding obligations:

For Material and Supplies.

Benjamin Electric Manufacturing Co.—electric light fixtures	$28 72
Dixon & Elliott—Hardware	9 55
H. W. Jacobs—Electric supplies	10 50
Kellogg Switchboard and Supply Co.—Telephone supplies	2 31
Lee Bros.—Freight and drayage	7 25
Northern Coast Timber Co.—Poles	104 88
Pacific Gas and Electric Co.—Electric supplies	13,145 53
Pacific States Electric Co.—Electric supplies	100 00
Payne Bolt Works—Bolts, etc.	148 06

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Pierson, Roeding Co.—Insulators, etc.	$104 48	
G. W. Remmel—Hardware	3 75	
John A. Roebling & Sons—Wire	442 93	
E. Starrett—Poles	7 75	
Safety Insulation Wire Co.—Wire	30 09	
Western Electric Co.—Telephone supplies	731 66	
		$15,177 46
For Automobiles and Motorcycles.		
Girrens Bros.—Ford cars	$649 75	
International Harvester Co.—I.H.C. truck	389 00	
Miscellaneous auto expense bills aggregating $840.00, 25 per cent of which is estimated as properly chargeable to capital	210 00	
		1,248 75
Labor and miscellaneous expenses aggregating $3,600.00, of which 25 per cent is estimated as properly chargeable to capital		900 00
Notes Payable.		
Snow Mountain Water and Power Co.—Purchase of plant, Ukiah District	$790 18	
International Harvester Co.—I.H.C. truck	150 00	
Westinghouse Electric and Manufacturing Co.—Electrical supplies	455 00	
		1,395 18
Total		$18,721 39
(b) To extensions, additions and improvements heretofore authorized under the designation of Exhibit "J" by this Commission's Decision No. 721, and referred to and set forth in the foregoing opinion		4,778 61
Total		$23,500 00

(3) The authority herein granted shall apply to such bonds as shall be issued on or before June 30, 1917.

(4) Applicant shall report to the Railroad Commission within thirty (30) days the issue of the bonds herein authorized, the face value of the bonds so issued, the net amounts received therefor and the disposition of the proceeds thereof, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(5) This order shall not become effective until applicant has paid the fee prescribed in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 12th day of August, 1916.

DECISION No. 3576.

IN THE MATTER OF THE APPLICATION OF VALLEY PIPE LINE COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1246.

Decided August 12, 1916.

Applicant permitted to issue 2,876¼ shares of stock of the par value of $100.00 per share, to be sold at not less than 80, proceeds thereof to be used in accordance with detailed cost estimates as submitted covering construction of a portion of applicant's pipe line from Coalinga oil fields to Martinez.

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REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

SEVENTH SUPPLEMENTAL ORDER.

This Commission on September 19, 1914, having authorized applicant to issue 53,184 shares of stock of the par value of $100.00 per share (Decision No. 1805, Volume 5, Opinions and Orders of the Railroad Commission of California, page 409), and to use the proceeds in the construction of a pipe line from the property of the California Oil Fields, Limited, in Fresno County, to Martinez, in Contra Costa County, on San Francisco Bay;

And this Commission, in the above mentioned order, having provided that said stock should not be issued until after applicant had filed detailed estimates of cost and received supplemental orders from this Commission for such issue;

And this Commission, in accordance with said provision having issued supplemental orders authorizing the applicant to issue 37,123¾ shares of said stock, and applicant now having presented to this Commission statements of cost as required by this Commission, and applicant having requested authority upon such statements of cost to issue 2,876¼ shares of its capital stock; and

Whereas it appears that such issue of stock will, under the supplemental orders herein, have provided for a total issue of 40,000 shares of said stock; and

Whereas it appears further that the issue of said 40,000 shares of stock will have provided for the completion of applicant's pipe line,

It is hereby ordered that Valley Pipe Line Company be granted authority and it is hereby granted authority to issue 2,876¼ shares of its capital stock of the par value of $100.00 per share, said stock being part of the 53,184 shares of the capital stock of this company, heretofore authorized to be issued under certain conditions, as specified in this Commission's Decision No. 1805, heretofore referred to.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The stock herein authorized to be issued shall be issued to Anglo-Saxon Petroleum Company at a price which shall yield the applicant not less than $80.00 per share.

(2) The proceeds from the sale of the stock herein authorized to be issued shall be used for the following purposes:

(*a*) For the payment of expenses incurred in the cost of construction of that certain pipe line which the applicant has constructed between the property of the California Oil Fields, Limited, near Coalinga, Fresno County, and Martinez, on San Francisco Bay, in Contra Costa County, California, in accordance

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with the plans and specifications of this Commission in connection with the application herein to which reference is hereby made.

(*b*) For working capital, organization expense, promotion expense, interest incurred during construction, and development cost, $116,000.00.

(3) Valley Pipe Line Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock hereby authorized to be issued; and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said stock during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The foregoing seventh supplemental order is hereby approved and ordered filed as the seventh supplemental order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 12th day of August, 1916.

Decisions Nos. 3577, 3578 and 3579, grade crossings; not printed. See end of volume.

DECISION NO. 3580.

M. M. ESHELMAN ET AL.

vs.

TITLE GUARANTEE AND TRUST COMPANY.

Case No. 864.

Decided August 18, 1916.

The Commission heretofore established a rate of $75.00 per month for 75 hydrants installed with a charge of 50 cents for each additional hydrant hereafter installed. The city protests such charge and asks for a rehearing.

Held, That the burden of a fire service rate should be borne in proportion to the benefit obtained and payment therefor should be closely proportioned to assessed valuation of inflammable property; that the contract rate was unduly burdensome upon owners of small houses, and that business houses receiving a greater benefit should be required to stand an equitable proportion of the rate. Schedule as heretofore established, reaffirmed.

Hartley Shaw, city attorney, for City of Tropico.

Nelson C. Burch, for Complainant, W. C. Seals.

W. G. Cook, for Defendant.

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REPORT OF THE COMMISSION.

OPINION ON FURTHER HEARING.

The City of Tropico filed an application for rehearing in the above case on the provisions of the order fixing a rate of $75.00 per month for the 75 hydrants in service April 1, 1916, and 50 cents per month for each additional hydrant installed. The application alleges a prior contract between the city and defendant, fixing a rate of $2.00 per hydrant per annum; that the usual or customary rate in southern California is not in excess of $3.00 per hydrant per annum; that the rate fixed by the order herein for fire service is unreasonable and excessive; that the city was not a formal party to the action, and that the contract in question was not placed in evidence at the original hearing. The Commission vacated the order and reopened the case to take further testimony and set the matter for further hearing.

Thereafter, W. C. Seals, one of the complainants, and chairman of the Water Service Committee of the Board of Trustees of the City of Tropico, filed a petition for rehearing. No testimony was offered on behalf of petitioner Seals, but it was stipulated that both petitions should be submitted on the same evidence.

At the hearing the city showed by its testimony the contract for the $2.00 rate as alleged; that there were 75 hydrants installed at the time of the order, and an additional one is now being or soon will be installed, and that the company has installed a number of standpipes for irrigation use, with 3-inch angle valves, which would be available for fire protection by putting on bushings, but that the city has not desired to use them.

The hydrants in question each have 4-inch barrels, with two openings and 2½-inch outlets, and are installed on mains not less than 4 inches in diameter.

The city tax rate of $1.00, the legal limit, produced, in 1913, $9,398.00; in 1914, $10,384.60; in 1915, $10,639.90. The city derives an additional annual revenue of about $250.00 from oil pipe line franchises, about $250.00 from gas company franchise, about $90.00 from telephone company franchise, and for the year ending June 30, 1914, $237.00 from bus licenses and $108.00 from the dog tax. The city has had a deficit for the last two years. Its taxes are assessed and collected by the county officials under the statutes for a commission of 1 per cent on amounts collected, and are levied on a valuation of about 40 per cent of actual values. It was not shown what revenue will probably be produced from the assessment for the coming year, nor whether the values for the purpose of assessment will be raised or lowered.

The city also showed that three fires had occurred in 1915, two in June, lasting 2 and 2½ hours respectively, and one in November, lasting

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3½ hours, and that including use for practice, the fire service had been used a total of only 15 hours during the year; that only one serious fire had occurred, but no figures concerning it were given.

Mr. H. F. Clark, one of the Commission's assistant hydraulic engineers, presented the report of the Board of Fire Underwriters of the Pacific on the city of Tropico, which estimated its population at 2,352. It describes the gravity supply as having a flow of 162 gallons per minute, and a pumping plant with two pumps connected directly to the mains with a capacity of 1,000 gallons per minute and storage reservoir of 1,500,000 gallons capacity, holding about four days supply, located about one mile northeast of the mercantile district, and at an elevation of about 90 feet above the town.

Mr. Clark reported that his investigation showed cost of the fire engine to be $9,500.00; 100 fire hydrants, $4,000.00 (those not installed being in storage), and the cost of installing the 75 being $925.00. These figures were confirmed and agreed upon at the hearing. He also presented the following table of fire hydrant rentals fixed by Californian cities, none of them being fixed by the Commission:

Alameda	$1 00	per month per hydrant
Alhambra	1 50	per month per hydrant
Auburn	60 00	per year for 67 hydrants
Bakersfield	4 00	per month per hydrant
Benicia	2 00	per month per hydrant
Chico	50	per month per hydrant
Eureka	2 50	per month per hydrant
Fresno	50	per month per hydrant
Hayward	2 75	per month per hydrant, main not less than 6 inches
Kennett	1 85	per month per hydrant
Mill Valley	1 00	two-way hydrant on 4-inch main
	75	one-way hydrant on 4-inch main
	50	one-way hydrant on 2-inch main
Monterey	Free	
Napa	2 00	per month per hydrant
Oakland	2 47	per month per hydrant
Paso Robles	15 00	per month for all hydrants
Red Bluff	Free	
Redding	1 00	per month per hydrant
San Anselmo	1 00	per month per hydrant
San Jose	50	per month per hydrant
Santa Monica	25	per month per hydrant
San Francisco	2 50	per month per hydrant
Santa Rosa	1 00	per month per hydrant
Stockton	1 00	per month per hydrant
Venice	25	per month per hydrant
Watsonville	25 00	per month for all city uses including hydrants.

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Summary.

Per hydrant.				For all service.	
$0 25 per month	2	$2 00 per month	2	$15 00 per annum	1
50 per month	4	2 47 per month	1	25 00 per month	1
75 per month	1	2 50 per month	2	60 00 per annum	1
1 00 per month	6	2 75 per month	1	Free	2
1 50 per month	1	4 00 per month	1		
1 85 per month	1				

In almost all of the above cases the cities owned and installed the hydrants. He also presented the result of a study by the Wisconsin Railroad Commission of fire service rates under which it has raised the cost of fire protection and lowered the domestic rates in seven cities, as follows:

Date	City	1910 Population	Per cent of water works revenue charged to fire service	Anual charge for fire service
1910	Jefferson, Wis.	2,582	75	$2,560
1910	Ripon, Wis.	3,739	65	6,082
1911	Oconto, Wis.	5,629	57½	9,812
1909	Ashland, Wis.	11,594	54½	20,480
1911	Janesville, Wis.	13,894	54	15,795
1911	Beliot, Wis.	15,125	48	14,863
1910	Madison, Wis.	25,531	49.6	17,000

The annual charge for fire protection in the first three cities mentioned, being those most nearly comparable in population with Tropico, average from $1.00 to $1.75 per inhabitant per year. The population of Tropico was given at the original hearing as about 4,000. It is estimated by the Board of Underwriters at 2,352. The number of services installed indicates a population of about 3,785. Assuming the population to be 3,600, the charge for fire service fixed in the order amounts to 25 cents per inhabitant per year. The percentage of probable gross water works revenue derived from fire service is about 7 per cent.

There is no well recognized or established method of determining with mathematical precision what is a fair and just rate for fire protection service or what rate would prove compensatory. This is principally because systems for fire protection are rarely separate from domestic systems.

The burden of a fire service rate should be borne in proportion to the benefit obtained by those paying it. Those owning the business houses in any community pay a comparatively low charge for the usual water service. In the protection of their inflammable property from fire, they receive the greatest degree of benefit. Payment for fire protection benefit should be closely proportioned to assessed valuation of inflammable property. It is not practical, however, to seek to apply a special fire service tax upon improvements alone, especially as adequate

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legal machinery is not in existence. However, the principle of raising a considerable portion of the cost of fire protection by tax in proportion to value was applied in the original order which was vacated prior to the further hearing. For obvious reasons proper rates for fire service could not be fairly based on hours of actual use of water.

The position of the city is that the rate fixed by contract is satisfactory to it and to defendant. It appears to us that the contract rate for fire service leaves upon the owners of small homes an unfairly heavy proportion of the burden for fire protection; and that the owners of business and other property using but small quantities of water in proportion to value, receive an unfairly large share of the benefit.

The water users are the most directly affected. The city fixes assessed valuation and rate of tax to raise the amount needed to run the government. Defendant is only interested in knowing that its return is adequate, regardless of whether it is raised directly through domestic water rates, or indirectly through taxation to produce hydrant rentals.

Sufficient reason for changing the original order not having been shown, a similar order will be entered.

ORDER.

M. M. Eshelman et al. having complained of the service and rates charged and collected by defendant, as trustee for Glendale Consolidated Water Company for water served to the inhabitants of the city of Tropico for domestic purposes, and defendant having filed its answer, and joined in the request to fix rates, and a public hearing of the case having been held, and a further hearing with special references to the fire service rate having been held upon the petitions of the City of Tropico and of W. C. Seals, Esq., the Commission does hereby find as facts:

(*a*) That the water rates of defendant, in so far as they differ from the rates herein found to be reasonable, are unreasonable and unjust, and the rates hereinafter set out are hereby found to be just and reasonable rates to be charged for the distribution of water by Title Guarantee and Trust Company to its consumers in Tropico and vicinity.

(*b*) That defendant has not failed or refused to provide adequate equipment and facilities for the service of water;

(*c*) That defendant's plant and system were not constructed by consumers or at their expense;

(*d*) That fire hydrants of the original cost of $4,768.00 were installed by the City of Tropico at its cost and expense.

Basing this order on the foregoing findings of fact, and the findings of fact in the above and foregoing opinion,

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It is hereby ordered that defendant, Title Guarantee and Trust Company be and it is hereby directed to establish and to file with the Railroad Commission within twenty (20) days from the date of this order the following rates to be charged for service of water to the inhabitants of Tropico and vicinity, to wit:

Monthly Meter Rates.

Minimum, including first 400 cubic feet, 75 cents.
Next 1,600 cubic feet, per 100 cubic feet, 10 cents.
Use in excess of 2,000 cubic feet, per 100 cubic feet, 6 cents.
Municipal use for sprinkling and flushing sewers, per 100 cubic feet, 6 cents.
Fire service, $75 per month for the hydrants in service April 1, 1915; additional hydrants, 50 cents per month each.
Flat rates in effect April 1, 1916, unchanged.

Dated at San Francisco, California, this 18th day of August, 1916.

Decision No. 3581.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY, OF FRANKLIN V. SPOONER, ROBERT R. PARDOW AND JOHN C. RUED, AND OF HENRY E. COOPER, A. M. HUNT, JAMES D. PHELAN, GEORGE WHITTELL, DAVID R. FORGAN, I. DEBRUYN, C. LEDYARD BLAIR, FREDERICK H. ECKER, STARR J. MURPHY, ROBERT W. MARTIN, WILLIAM SALOMON AND RICHARD B. YOUNG, AS THE REORGANIZATION COMMITTEE CONSTITUTED BY THE PLAN AND AGREEMENT OF REORGANIZATION OF WESTERN PACIFIC RAILWAY COMPANY FOR AUTHORIZATION OF PROCEEDINGS PURSUANT TO SAID PLAN AND AGREEMENT OF REORGANIZATION.

Application No. 2351.

Decided August 18, 1916.

Report of the Commission.

THIRD SUPPLEMENTAL ORDER.

The Railroad Commission hereby declares that The Western Pacific Railroad Company has filed in the above entitled proceeding, a stipulation, in form satisfactory to the Railroad Commission, duly authorized by the board of directors of The Western Pacific Railroad Company, agreeing for The Western Pacific Railroad Company, its successors and assigns, that they will never claim before the Railroad Commission or any public authority, in any proceeding of any character, any value for the franchises and permits in the state of California authorized in Application No. 2351 to be conveyed, in excess of the amount paid therefor by their original grantee in each case, which stipulation refers by number of ordinance or resolution and date to each such franchise or permit and states the sum paid in each instance by the original grantee.

Dated at San Francisco, California, this 18th day of August, 1916.

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Decisions Nos. 3582, 3583 and 3584, grade crossings; not printed. See end of volume.

DECISION No. 3585.

GEORGE D. EASON ET AL.

vs.

BEAUMONT LAND AND WATER COMPANY AND SAN GORGONIO WATER COMPANY.

Case No. 941.

Decided August 18, 1916.

The Commission has no power to award reparation covering alleged excessive charges made for the right to receive water when such charges were paid over two years prior to the filing of the complaint. Complaint dismissed without prejudice.

REPORT OF THE COMMISSION.

This complaint was filed by a number of holders of so-called water rights under the water systems of defendants. The complaint alleges that at all times prior to the twenty-fifth day of April, 1913, the defendant water companies improperly exacted a charge of $50.00 per acre for the right to receive water for irrigation; that such sums were improperly collected to the amount of approximately $10,000.00. The complaint further alleges that at all times prior to April 25, 1913, said defendants refused to install meters or service connections except upon the payment to them improperly of the cost of such meter and service connections; that such sums have been improperly collected to the amount of approximately $10,000.00.

The prayer of the complaint is that the Commission award reparation to the complainants for "said charge of $50.00 per acre and the said charge for meter and service installation," together with interest thereon from the date of payment thereof.

The defendants have filed a motion to dismiss the complaint for lack of jurisdiction.

The jurisdiction of the Commission to award reparation is defined in section 71 of the Public Utilities Act. This section provides in part, that "all complaints concerning excessive or discriminatory charges shall be filed with the Commission within two years from the time the cause of action accrues."

The complaint alleges that at all times prior to the twenty-fifth day of April, 1913, the charges as to which reparation is sought were exacted by the defendants. The complaint was not filed until March 31, 1916. Accordingly, it appears from the face of the complaint itself that the Commission would not have jurisdiction to award reparation in this proceeding. The complaint must accordingly be dismissed.

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It may be that some of the complainants in this proceeding actually paid the charges within the statutory period, although this does not appear from the complaint. The complaint will, accordingly, be dismissed without prejudice in order that the complainants, if any, who did make their payments within the statutory period, will not be precluded from filing a complaint with the Commission. If any such complaint is filed, we suggest that the complaint state definitely when each of the charges complained of was actually paid. We recommend that this practice be followed in all complaints wherein reparation is sought.

ORDER.

It appearing from the face of the complaint in this proceeding that the Commission does not have jurisdiction to award relief upon the allegations contained in the complaint,

It is hereby ordered that the complaint be and the same hereby is dismissed without prejudice.

Dated at San Francisco, California, this 18th day of August, 1916.

DECISION No. 3586.

IN THE MATTER OF THE APPLICATION OF OCEANSIDE ELECTRIC AND GAS COMPANY FOR AN ORDER AUTHORIZING THE SALE OF ITS ENTIRE PROPERTY TO SAN DIEGO CONSOLIDATED GAS AND ELECTRIC COMPANY.

Application No. 2365.

Decided August 18, 1916.

Oceanside Electric and Gas Company authorized to transfer all its rights and property to the San Diego Consolidated Gas and Electric Company, the latter having already purchased all outstanding stock of the first named corporation.

Sweet, Stearns & Forward, for Petitioner.

REPORT OF THE COMMISSION.

THELEN, *Commissioner.*

Oceanside Electric and Gas Company asks authority to sell its entire property and rights other than the right to be a corporation to San Diego Consolidated Gas and Electric Company. The latter company joins in the petition.

A public hearing was held in San Diego on August 4, 1916, at which time the application was submitted.

On May 26, 1916, the Railroad Commission authorized San Diego Consolidated Gas and Electric Company to purchase the entire issued capital stock of Oceanside Electric and Gas Company consisting of 1,819 shares at the price of $14.00 per share (Decision No. 3380, Application

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No. 2290). San Diego Consolidated Gas and Electric Company now reports that it has purchased the entire issued capital stock of Oceanside Electric and Gas Company with the exception of 5 shares. The owner of these 5 shares has signed an option to sell at $14.00 per share and the money has been deposited in a bank awaiting demand therefor by the owner of the stock.

On June 19, 1916, the Railroad Commission made its first supplemental order in Application No. 2290, reciting that San Diego Consolidated Gas and Electric Company has filed a stipulation in form satisfactory to the Railroad Commission, declaring that it, its successors and assigns, will never claim before the Railroad Commission or any court or other public authority any value for the franchises and permits of Oceanside Electric and Gas Company in excess of the actual cost of acquiring said franchises and permits, which cost is stated to have been $25.00.

Oceanside Electric and Gas Company now desires to convey all its property to San Diego Consolidated Gas and Electric Company and thereafter to disincorporate. As stated in Decision No. 3380, Oceanside and adjacent territory will hereafter be served with electric energy from San Diego Consolidated Gas and Electric Company's plant in San Diego, as soon as San Diego Consolidated Gas and Electric Company has completed its proposed transmission line from Del Mar to Oceanside.

San Diego Consolidated Gas and Electric Company has already extended the service at Oceanside from service during only a portion of the night, to a twenty-four hour service, and is giving consideration to a reduction of the existing rates for both lighting and power service. Oceanside Electric and Gas Company's rate for lighting service has been 20 cents per kilowatt hour and for power service 8 cents per kilowatt hour.

I find that the public interest will be served by the proposed transfer and recommend that the application be granted.

I submit the following form of order:

ORDER.

Oceanside Electric and Gas Company having applied for authority to sell its entire property, except its right to be a corporation, to San Diego Consolidated Gas and Electric Company, and a public hearing having been held, and the Railroad Commission finding that the public interest will be served by said sale,

It is hereby ordered that Oceanside Electric and Gas Company be and the same is hereby authorized to sell to San Diego Consolidated Gas and Electric Company its entire property, real, personal and mixed, rights, privileges and franchises, except its right to be a corporation; said

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property, rights and franchises being more particularly described in Decision No. 3380, rendered on May 26, 1916, in Application No. 2290, to which decision reference is hereby made. Within twenty days from the execution of deed of conveyance a certified copy thereof shall be filed with the Railroad Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 18th day of August, 1916.

DECISION NO. 3587.

IN THE MATTER OF THE APPLICATION OF PLUMAS LIGHT AND POWER COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS AND NOTES.

Application No. 2297.

Decided August 18, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Good cause appearing,

It is hereby ordered that Condition No. 1 of the order found in Decision No. 3553, dated July 31, 1916, reading—

> "Within fifteen days after the date of this decision, applicant shall submit to this Commission for approval a copy of its proposed mortgage or deed of trust securing the payment of the notes herein authorized to be issued;"

be and the same is hereby amended so as to read as follows:

> "Within sixty days after the date of this first supplemental order, applicant shall submit to this Commission for approval a copy of its proposed mortgage or deed of trust securing the payment of the notes, the issue of which is authorized by Decision No. 3553, dated July 31, 1916."

It is hereby further ordered that Decision No. 3553, dated July 31, 1916, shall remain in full force and effect, except as the same may be in conflict with this first supplemental order.

Dated at San Francisco, California, this 18th day of August, 1916.

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DECISION NO. 3588.

JOSEPH J. McDERMOTT
vs.
GREAT WESTERN POWER COMPANY.

Case No. 531.

Decided August 18, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

It appearing to the Commission that it does not have jurisdiction upon the allegations of the complaint to grant the relief requested,

It is hereby ordered that the complaint in the above entitled matter be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 18th day of August, 1916.

DECISION NO. 3589.

IN THE MATTER OF THE APPLICATION OF HOLLENBECK HEIGHTS COMPANY AND THE BOARD OF PUBLIC SERVICE COMMISSIONERS OF THE CITY OF LOS ANGELES FOR AN ORDER AUTHORIZING THE SALE OF PUBLIC UTILITY PROPERTY.

Application No. 2499.

Decided August 18, 1916.

REPORT OF THE COMMISSION.

ORDER.

Hollenbeck Heights Company, a public utility engaged in supplying water to about 750 persons in the territory in the city of Los Angeles, bounded on the north by Stephenson avenue, on the east by the city boundary, on the south by the city boundary, and on the west by Spence street, having applied to this Commission for authority to sell to the Board of Public Service Commissioners of the city of Los Angeles, in accordance with the terms and conditions of a form of deed attached to the application and marked "Exhibit B," the following described property:

> (*a*) All water pipes, service connections, meters, appliances, appurtenances and extensions constituting and pertaining to the water distributing system known as the water works of the Hollenbeck Heights Company and supplying water in the territory lying inside the city of Los Angeles, and bounded as follows: On the north by Stephenson avenue; on the east by the city boundary; on the south by the city boundary, and on the west by Spence street; together with all mains, connections and appurtenances pertaining

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to said water system within the district above named, or elsewhere in said city; and all water mains and service connections, extensions and appurtenances thereof, owned, used and operated by said first party for supplying water in said city; excepting wells, pumps, machinery, buildings and the land whereon the same are located;

(*b*) All franchises and rights of way owned or held by or for said first party and used or necessary in connection with the construction of said works;

(*c*) All maps and records pertaining to said water system and relating to pipes, services, consumers, property ratings, etc.

And the Board of Public Service Commissioners of the city of Los Angeles having joined in the application, and it appearing to the Commission that this is not a case in which a public hearing is necessary and that the application should be granted,

It is hereby ordered that this application be and the same is hereby granted.

Dated at San Francisco, California, this 18th day of August, 1916.

DECISION NO. 3590.

IN THE MATTER OF THE APPLICATION OF THE CONSOLIDATED SECURITIES COMPANY FOR LEAVE TO SELL, AND OF THE SAN FERNANDO TELEPHONE AND TELEGRAPH COMPANY FOR LEAVE TO PURCHASE, THE LOCAL TELEPHONE SYSTEM IN THE CITY OF SAN FERNANDO.

Application No. 1269.

Decided August 18, 1916.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas this Commission has heretofore issued an order authorizing Consolidated Securities Company to sell its telephone plant and property located in the city of San Fernando to San Fernando Telephone and Telegraph Company, Decision No. 1832 (Vol. 5, Opinions and Orders of the Railroad Commission of California, page 490); and

Whereas this Commission in said order authorized San Fernando Telephone and Telegraph Company to execute a promissory note in the sum of $20,000.00, and to issue and sell $10,000.00 par value of its capital stock; and

Whereas this Commission in said order found that public convenience and necessity required the exercise by San Fernando Telephone and Telegraph Company of certain franchise rights and privileges; and

Whereas the authority therein given is based upon certain conditions, among them the following: "Provided, however, that the authorization

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hereinabove given for the transfer of this telephone property shall not become effective until there shall have been sold by San Fernando Telephone and Telegraph Company $10,000.00 of the stock at par as above authorized; and

Whereas San Fernando Telephone and Telegraph Company now requests a modification of said condition; and

Whereas said request is reasonable,

It is hereby ordered that the condition herein referred to and hereinabove quoted be and it is hereby modified to read as follows: "Provided, however, that the authorization hereinabove given for the transfer of this telephone property shall not become effective until there shall have been sold by the San Fernando Telephone and Telegraph Company $10,000.00 of the stock at par, as above authorized, or until said San Fernando Telephone and Telegraph Company shall have received bona fide subscriptions at par for $10,000.00 of the stock as above authorized."

The foregoing supplemental order is hereby approved and ordered filed as the supplemental order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 18th day of August, 1916.

DECISION NO. 3591.

M. V. STIREWALT ET AL.

vs.

CONSOLIDATED CANAL COMPANY.

Case No. 916.

Decided August 21, 1916.

In connection with an application for rehearing filed by defendant, it is held that an irrigation company can not be expected to take over and operate a privately owned ditch unless adequate compensation is provided therefor. That a greatly improved and more satisfactory service would result from the company operating all privately owned ditches and laterals, but that the company can not be expected to follow such procedure when consumers refuse to pay an adequate compensation therefor.

Original order set aside and provision made that should consumers pay in advance the entire cost of operating and maintaining their privately owned ditch, an order will be entered directing defendant to so act during the irrigation season of 1917.

M. V. Stirewalt, R. R. Englebeck and *Adolph Anderson* for Complainants.

W. A. Sutherland, for Defendant.

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REPORT OF THE COMMISSION.

OPINION ON REHEARING.

THELEN, *Commissioner.*

On June 27, 1916, a public hearing in the above entitled proceeding was held in Fresno, at which time and place evidence and argument were received on the question whether a rehearing should be held herein, on petition of the defendant. As is usual in such proceedings, it was stipulated that if the Railroad Commission should decide that a rehearing should be held, the evidence and argument thus received should be deemed to be the evidence and argument which would have been offered and received on the rehearing, thus obviating the necessity of a further hearing. The Railroad Commission is of the opinion that defendant was entitled to a rehearing. The defendant has now filed certain additional data and the matter is ready for decision.

The Lobre ditch, through which complainants receive their irrigation water from defendant, was constructed and is owned by the landowners and not by defendant. Defendant has never maintained and operated the ditch except during the year 1915, under special arrangement with the plaintiffs. Defendant has been able to collect only a portion of the additional compensation which it was to receive for repairing the Lobre ditch and for maintaining and operating it in 1915.

Under defendant's contracts, it has the option to take over and operate all the privately owned ditches under its system. There is no provision in the contract, however, under which the contract holders can compel defendant to exercise the option.

I am of the opinion that the best interests of the consumers under this system would be served if defendant took over and operated all the privately owned ditches. Such action would in many instances result in a material improvement in the service and in the removal of inequalities in the amount and time of delivery of water now existing as between different consumers on the same privately owned ditches. Defendant, however, can not reasonably be asked or required to perform this additional service unless it is reasonably compensated for the service and is assured that it will receive the additional compensation.

The problem could be solved by the establishment of a single rate which would cover both the service now performed by the defendant and the suggested additional service of maintaining the privately owned ditches and of delivering water through them directly to each individual consumer. Defendant, however, has not exercised its option to take over the Lobre ditch and complainants have not offered to pay any increase over the contract rate of 75 cents per acre per year.

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Another solution of the problem, less comprehensive and satisfactory, would be the establishment of a separate, additional compensation, not considered as part of the established rate, to be paid to defendant for the additional service of maintaining and operating each private ditch as to which agreement can be reached between defendant and the consumers thereon. As already stated, such arrangement was in effect during the year 1915 under the Lobre ditch, but defendant declines to proceed under this arrangement because it has been unable to collect the additional compensation to which it became entitled and has no assurance of being able to collect the additional compensation in the future.

Defendant concedes that the present method of maintaining and operating the private laterals is unsatisfactory. Waiving the question of the legal power of the Railroad Commission to compel defendant against its will to maintain and operate the private ditches, defendant at the hearing of June 27, 1916, offered to continue to maintain and operate the Lobre ditch, but only if the annual compensation is paid in full in advance and if the entire compensation is paid in advance on or before the first day of November of the preceding year, so that the work of cleaning and repairing the ditches may be completed in time for the next season's operations. In view of the practical difficulty which defendant had in collecting the compensation to which it was entitled for maintaining and operating the Lobre ditch in 1915, and of the legal impossibility, in the absence of the exercise of defendant's option under the contracts, of compelling nonconsenting landowners to pay their proportional share of the cost to defendant of maintaining and operating the Lobre ditch, I am of the opinion that defendant is justified in its position.

If any number of consumers holding contracts under the Lobre ditch shall, on or before September 15, 1916, agree, in writing filed with the Railroad Commission, that they will pay to defendant, on or before November 1, 1916, the entire cost of maintaining and operating the Lobre ditch during the year 1917, as said cost may be estimated by the Railroad Commission's hydraulic department, the Railroad Commission will, on stipulation of Consolidated Canal Company, issue a supplemental order herein directing defendant, on such entire cost being paid on or before November 1, 1916, to maintain and operate the Lobre ditch during the year 1917. If no such written agreement is filed with the Railroad Commission on or before September 15, 1916, it will be necessary for the Railroad Commission to issue its order dismissing this proceeding. In the meantime, the order heretofore made herein must be set aside.

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I can not refrain from expressing the hope that ultimately the many difficulties and inequalities which have come to the Railroad Commission's notice in connection with the maintainence and operation of the private ditches by the landowners themselves may be solved by their maintenance and operation by defendant for a fair compensation under the supervision and regulation of the appropriate public authority. The Railroad Commission stands ready at all times to do all in its power to bring about this result.

I submit the following form of order:

ORDER ON REHEARING.

Consolidated Canal Company, defendant in the above entitled proceeding, having petitioned for a rehearing on the order rendered herein on April 29, 1916, and evidence and argument on the question of a rehearing having been received, and the Railroad Commission finding that a rehearing should be granted, and that on the evidence stipulated to be offered and received on such rehearing said order of April 29, 1916, should be vacated and set aside and this proceeding held open for further proceedings as indicated in the opinion which precedes this order,

It is hereby ordered that the order of April 29, 1916, herein be and the same is hereby vacated and set aside, and that this proceeding be held open for further proceedings as indicated in the opinion which precedes this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the state of California.

Dated at San Francisco, California, this 21st day of August, 1916.

DECISION NO. 3592.

IN THE MATTER OF THE APPLICATION OF WESTERN STATES GAS AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS OF THE FACE VALUE OF TWO HUNDRED AND SIXTY-SIX THOUSAND DOLLARS AND NOTES OF THE FACE VALUE OF THIRTY-THREE THOUSAND DOLLARS.

Application No. 1731.

Decided August 23, 1916.

REPORT OF THE COMMISSION.

FIFTEENTH SUPPLEMENTAL ORDER.

Whereas this Commission by Decision No. 2726, dated August 31, 1915 (Vol. 7, Opinions and Orders of the Railroad Commission of

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California, page 923), authorized the delivery to Western States Gas and Electric Company of $182,000.00 face value of bonds, the issue of which was authorized by Decision No. 2150, dated June 30, 1915 (Vol. 7, Opinions and Orders of the Railroad Commission of California, page 485), provided that Western States Gas and Electric Company deposit with the trustee, Girard Trust Company, the sum of $182,000.00 in cash, said $182,000.00 so deposited with the trustee to be withdrawn by the applicant from time to time in accordance with the order of this Commission permitting the withdrawal; and

Whereas applicant has heretofore reported the cost of extensions, additions and betterments at $223,606.36; and

Whereas applicant reports that under its deed of trust it can issue bonds only to pay for 75 per cent of the cost of extensions, additions and betterments; and

Whereas applicant reports in a statement filed August 18, 1916, that it has expended from July 1, 1916, to July 31, 1916, both dates inclusive, the sum of $17,129.69 for extensions, additions and betterments to its plant; and

Whereas applicant asks authority to withdraw from the aforesaid fund remaining on deposit with the trustee the sum of $12,847.27, representing 75 per cent of the cost of extensions, additions and betterments installed during the month of July, 1916,

And good cause appearing,

It is hereby ordered that Western States Gas and Electric Company be given authority and it is hereby given authority to withdraw from Girard Trust Company the sum of $12,847.27, being a portion of the amount deposited with the trustee in accordance with Decision No. 2726, dated August 31, 1915, of the Railroad Commission of the State of California.

It is hereby further ordered that Decision No. 2150, dated June 30, 1915, as amended by the supplemental orders thereto, shall remain in full force and effect except as it may be modified by this fifteenth supplemental order.

Dated at San Francisco, California, this 23d day of August, 1916.

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Decision No. 3593, grade crossing; not printed. See end of volume.

DECISION NO. 3594.

IN THE MATTER OF THE APPLICATION OF ROSEVILLE TELEPHONE COMPANY FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

Application No. 1451.

Decided August 23, 1916.

REPORT OF THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

Whereas the Commission by Decision No. 2021, dated December 22, 1914 (Vol. 5, Opinions and Orders of the Railroad Commission of California, page 933), authorized applicant herein, subject to certain conditions, to issue at not less than the par value thereof, 400 shares of its capital stock—par value $10.00 per share—provided that of said 400 shares of capital stock 305 shares shall not be issued until the Commission shall have issued a supplemental order or orders indicating the purposes for which the proceeds from the sale of said 305 shares of capital stock shall be used; and

Whereas by Decision No. 3130, dated February 26, 1916, being the first supplemental order in the above entitled matter, the Commission authorized applicant to use the proceeds obtained from the issue of 167 shares of capital stock, the issue of which was authorized by Decision No. 2021, dated December 22, 1914, to reimburse its treasury for moneys expended for additions and betterments, as set forth in a statement filed with this Commission on February 3, 1916; and

Whereas on August 5, 1916, applicant herein filed a supplemental application asking authority to issue 83 shares of capital stock to reimburse its treasury for moneys expended for extensions, additions and betterments as shown in a statement attached to the supplemental application; and

Good cause appearing,

It is hereby ordered that Roseville Telephone Company be and it is hereby authorized to issue 83 shares of its capital stock of the par value of $10.00 per share for the purpose of reimbursing its treasury for moneys expended for additions and betterments, as set forth in a statement filed with the Commission on August 5, 1916; said 83 shares of stock to be a part of and not in addition to the 400 shares of stock, the issue of which this Commission authorized by Decision No. 2021, dated December 22, 1914.

It is hereby further ordered that Decision No. 2021, dated December 22, 1914, and the amendments thereto, shall remain in full force

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and effect, except as the same may be modified by this second supplemental order.

Dated at San Francisco, California, this 23d day of August, 1916.

DECISION No. 3595.

GEORGE H. COMPSTON AND ROBERT D. KELLOGG
vs.
THE RICHFIELD LAND COMPANY AND THE RICHFIELD WATER COMPANY.

Case No. 976.

Decided August 25, 1916.

REPORT OF THE COMMISSION.

ORDER OF DISMISSAL.

Complainants having, on August 21, 1916, asked that the complaint in this proceeding be dismissed without prejudice,

It is hereby ordered that the complaint in this proceeding be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this 25th day of August, 1916.

DECISION No. 3596.

IN THE MATTER OF THE APPLICATION OF SAN PEDRO TRANSPORTATION COMPANY FOR PERMISSION AUTHORIZING THE BORROWING OF FIVE THOUSAND DOLLARS.

Application No. 2478.

Decided August 25, 1916.

Applicant authorized to issue a note of the face value of $5,000.00, bearing interest at 7 per cent, such note to be issued for a period of two years, proceeds thereof to be used to discharge floating indebtedness.

Frank A. Garbutt and *Samuel C. Hall*, for Applicant.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

In this application, San Pedro Transportation Company asks authority to issue a note for $5,000.00 for a period of from one to two years, with interest at not to exceed 7 per cent per annum, and if necessary, to execute a mortgage securing the payment of said note.

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As an alternative, applicant presented a request for authority to issue $25,000.00 face value of ten year 6 per cent bonds, at not less than the face value thereof. Representatives for applicant, however, were not able to inform the Commission in regard to the specific purposes for which the additional $20,000.00 would be used. They also report that applicant has made no arrangements to issue bonds, has executed no deed of trust nor conferred with any person to act as trustee.

Under the facts and circumstances as presented to this Commission, I am of the opinion that applicant should at this time adhere to its original plan and issue a $5,000.00 note rather than $25,000.00 face value of bonds. If applicant's financial condition improves and the demand for new boats should arise, it may hereafter make application to this Commission for authority to issue the bonds, and at that time, if it is deemed advisable, may refund the note herein authorized to be issued.

Applicant is engaged in operating a line of small gasoline ferryboats between various points in the harbor of Los Angeles, and is also engaged in a general boating business for hire, for freight, towing, fishing and other purposes in the harbor of Los Angeles and along the southern coast.

In Exhibit "B," attached to the application, applicant reports the cost of its property and the present value thereof as follows:

Item	Cost	Present value
Boat shop equipment	$700 00	$2,940 00
Machine shop	2,410 39	2,295 00
Fifth street office building	1,138 00	500 00
One small barge	700 00	200 00
Office furniture	200 00	150 00
Stock—cigars and drinks	150 00	200 00
Boats	53,561 68	42,850 00
Equipment	3,140 90	1,500 00
Franchises	500 00	
Totals	$62,500 97	$50,635 00

In Exhibit "A," attached to the application herein, applicant reports its revenues and expenses for the fiscal year ending December 31, 1915, as follows:

Revenues.

Passenger revenue	$25,659 25	
Freight revenue	515 20	
Boat hire	16,016 04	
Rents	560 00	
Total revenues		$42,750 49

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Expenses.

Labor		$20,776 75
Repairs and maintenance		3,353 69
Supplies		2,440 49
Taxes		854 95
Fuel and lubricating oils		5,534 92
Miscellaneous		952 71
Compensation insurance		745 90
Payments to the city of Los Angeles		1,952 38
Landing rental		1,350 00
Superintendent		2,400 00
Office rent and salaries		2,400 00
Depreciation on boats and equipment		3,156 00
Depreciation on franchise		2,000 00
Total expenses		$47,917 79
Loss for year		$5,167 30

Applicant desires to use the proceeds obtained through the issue of the $5,000.00 note to pay in part its floating indebtedness reported in Exhibit No. 1 at $6,283.98. The indebtedness represents advances for the construction of a ferry, unpaid salaries and miscellaneous current bills. It appears that approximately $1,874.25 represents operating expenses. The testimony, however, is to the effect that instead of paying its current operating bills, applicant has invested certain of its earnings in fixed capital. Had it not followed this policy, it would be able to meet all of its operating expenses.

Inasmuch as applicant desires to pay its general creditors, it will be necessary for it to reimburse its treasury to the extent that the indebtedness reported in Exhibit No. 1 represents operating expenses. The order in this proceeding, however, will specify that any moneys thus applied for reimbursement shall afterwards be used by applicant to pay its indebtedness.

I herewith submit the following form of order:

ORDER.

San Pedro Transportation Company having applied to the Commission for authority to issue its $5,000.00 promissory note for a term not exceeding two years, and for authority to execute a mortgage securing the payment of said note,

And a hearing having been held and it appearing that the purposes for which applicant desires to use the proceeds obtained through the issue of the note are not in whole or in part reasonably chargeable to operating expenses,

It is hereby ordered that San Pedro Transportation Company be given authority and it is hereby given authority to issue its promissory note in the principal sum of not more than $5,000.00.

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It is hereby further ordered that San Pedro Transportation Company be given authority and it is hereby given authority to execute a mortgage securing the payment of the note herein authorized to be issued.

The authority herein granted is granted upon the following conditions and not otherwise:

(1) The note herein authorized to be issued may be issued for a term of not more than two years, provided that applicant may issue said note for a term of less than two years and renew the same without further authority from this Commission, on the condition that the term of the original note, plus the term of the renewal, shall not exceed the period of two years.

(2) The note herein authorized to be issued shall bear interest at not more than 7 per cent per annum and shall be issued so as to net applicant herein the face value thereof.

(3) Applicant shall file with this Commission a copy of its proposed mortgage.

(4) The proceeds obtained through the issue of the note herein authorized shall be used for the following purposes and not otherwise:

(A) The amount of $1,874.25 may be used to reimburse applicant's treasury for capital expenditures, provided that the money thus used will thereafter be applied to the payment of the following indebtedness:

Salaries	$667 40
Globe Ticket Company	150 00
Frank E. Garbutt Company	19 35
R. A. Rowan & Company	251 95
City of Los Angeles	115 00
Standard Oil Company	670 55

(B) The remainder of the proceeds may be applied by applicant to the payment of the remainder of its indebtedness.

(5) San Pedro Transportation Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the note hereby authorized to be issued, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

(6) The authority herein given to issue said note for $5,000.00 is contingent upon the payment of the fee specified in section 57 of the Public Utilities Act, as amended.

(7) The authority herein granted shall apply only to such note as shall have been issued on or before December 31, 1916.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of August, 1916.

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Decision No. 3597, grade crossing; not printed. See end of volume.

DECISION NO. 3598.

IN THE MATTER OF THE APPLICATION OF EAST OAKLAND WATER AND ELECTRIC COMPANY FOR AN ORDER AUTHORIZING SAID EAST OAKLAND WATER AND ELECTRIC COMPANY TO MORTGAGE CERTAIN PUBLIC UTILITY PROPERTY.

Application No. 2081.

Decided August 25, 1916.

Applicant authorized to issue 1,900 shares of stock of the par value of $1.00 per share, or in lieu thereof, a note of the face value of $1,900.00, for the purpose of discharging outstanding note, working capital and additions to plant. Permission to use portion of proceeds of note for payment of operating expenses refused.

REPORT OF THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

Applicant in the above entitled matter on July 19, 1916, filed a supplemental application asking the Commission to ratify the issue of one hundred and eleven (111) shares of its capital stock, par value one dollar ($1) per share; the issue of a four hundred dollar ($400) note; also authorizing the issue of a two thousand dollar ($2,000) note and extend the time within which applicant may issue its stock referred to in Decision No. 2487, dated June 14, 1915 (Vol. 7, Opinions and Orders of the Railroad Commission, page 159). In said Decision No. 2487 the Commission authorized Andrew Sorenson to transfer his water utility properties to East Oakland Water and Electric Company. In payment the company was permitted to issue six thousand (6,000) shares of its capital stock, par value one dollar ($1) per share, at not less than the par value thereof. The company was also permitted to issue, on or before January 1, 1916, five (5) shares of its capital stock to qualify its directors and two thousand nine hundred and seventy-five (2,975) shares to pay for certain proposed additions and betterments. Thereafter applicant, because of its ability to sell but four hundred and seventeen (417) shares of its stock, set aside for additions and betterments, filed an application seeking authority to issue a three thousand dollar ($3,000) note to finance the same improvements for which it was authorized to issue stock.

In Decision No. 3151, dated March 11, 1916, the Commission authorized applicant herein to issue its note or notes for three thousand dollars ($3,000) and specifically stated that the authority granted is in substitution for and not in addition to the authority to issue stock to finance said additions and betterments. In other words, the authority to issue the note or notes was an alternative to the issue of stock.

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Applicant now reports that subsequent to January 1, 1916, it has issued one hundred and eleven (111) shares of its capital stock and contrary to the conditions set forth in Decision No. 3151 issued a four hundred dollar ($400) note. It further reports that because of a power contract with Great Western Power Company it will need but two thousand dollars ($2,000) to pay for its proposed additions and betterments instead of three thousand dollars ($3,000), as originally contemplated.

While applicant requests that the Commission issue a supplemental order extending the time within which applicant may issue its stock authorized by Decision No. 2487, dated June 14, 1915, we believe that matters would be simplified if this request be denied and that the order in Decision No. 3151 be vacated and set aside and the entire matter treated anew.

In Exhibit "A," attached to the supplemental application, applicant reports that it desires to use the proceeds obtained through the issue of a two thousand dollar ($2,000) note for the following purposes:

To refund note illegally issued	$400 00
For working capital	500 00
For additions and betterments	1,100 00
Total	$2,000 00

From reports filed with the Commission it appears that ninety-nine and fifty one-hundredths dollars ($99.50) of the proceeds from the four hundred dollar ($400) note were used to pay operating expenses. Consequently, no part of the two thousand dollar ($2,000) loan may be used to pay the ninety-nine and fifty-one hundredths dollars ($99.50). This indebtedness will have to be paid out of current operating revenues, or provision made for the issue of a note for a term of one year or less.

Eliminating the portion of the four hundred dollar ($400) loan chargeable to operating expenses, we find that applicant would be justified in issuing its note for nineteen hundred dollars ($1,900) or, as an alternative, to issue stock in the amount of nineteen hundred dollars ($1,900). This does not include the one hundred and eleven (111) shares of stock which applicant desires to issue in lieu of a like amount of stock heretofore issued without authority from the Commission.

FIRST SUPPLEMENTAL ORDER.

East Oakland Water and Electric Company having filed a supplemental application in the above entitled matter, requesting the Commission to approve certain acts heretofore performed by applicant without the authority of the Commission and for an order authorizing the issue of a note in the principal sum of not to exceed two thousand dollars ($2,000);

And it appearing to the Commission that no further hearing is necessary in this matter,

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It is hereby ordered that East Oakland Water and Electric Company be given authority and it is hereby given authority to issue one hundred and eleven (111) shares of its capital stock, par value one dollar ($1) per share, at not less than the par value thereof, in lieu of one hundred and eleven (111) shares of capital stock heretofore issued without the authority of the Commission.

It is hereby further ordered that East Oakland Water and Electric Company be given authority and it is hereby given authority to issue nineteen hundred (1,900) shares of its capital stock, par value one dollar ($1) per share, at not less than the par value thereof, or as an alternative, to issue its three year note or notes for the principal sum of not more than nineteen hundred dollars ($1,900).

It is hereby further ordered that East Oakland Water and Electric Company be given authority and it is hereby given authority to execute a mortgage to secure the payment of the note or notes which may be issued in accordance with the authority herein granted.

The authority herein granted is granted upon the following conditions, and not otherwise:

1. The note or notes herein authorized to be issued shall be issued so as to net not less than the face value thereof.

2. The note or notes herein authorized to be issued shall bear interest at not more than seven (7) per cent per annum.

3. The note or notes herein authorized to be issued may be issued for a term of not more than three (3) years, provided that applicant may issue its note or notes for a term of less than three (3) years, and without further authority of the Commission renew the same, provided that the term of the original note plus the terms of the renewal note shall not exceed the period of three (3) years.

4. Before applicant shall issue a note, the payment of which is secured by mortgage upon its property, it shall submit to this Commission for approval a copy of its proposed mortgage.

5. The proceeds obtained through the issue of nineteen hundred (1,900) shares of its capital stock, or through the issue of a note or notes for the sum of nineteen hundred dollars ($1,900), shall be used for the following purposes:

(*a*) To refund in part the $400.00 note issued without the authority of the Commission	$300 00
(*b*) For working capital	500 00
(*c*) For additions and betterments set forth in Exhibit "A," attached to supplemental application	1,100 00
Total	$1,900 00

6. East Oakland Water and Electric Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the stock and notes or note hereby

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authorized to be issued and sold, and on or before the twenty-fifth day of each month shall make verified reports to the Commission, stating the sale of said stock and notes or note during the previous month, the terms and conditions of such sale, the moneys realized therefrom and the use and application of such moneys, all in accordance with the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. This order shall not become effective in so far as it relates to the issue of a note or notes until the fee prescribed by section 57 of the Public Utilities Act has been paid.

8. The authority hereby given to issue stock and a note or notes shall apply only to such stock, note or notes as may be issued on or before the 30th day of June, 1917.

It is hereby further ordered that the authority granted by Decision No. 3151, dated March 11, 1916, be and hereby is vacated and set aside.

Dated at San Francisco, California, this 25th day of August, 1916.

DECISION No. 3599.

IN THE MATTER OF THE RATES AND SERVICE OF BELVEDERE WATER COMPANY.

Case No. 908.

Decided August 26, 1916.

Valuation of water plant for rate fixing purposes; *Held:*

1. The overhead allowance made in connection with valuations of small water plants can not be based on comparisons with allowances made in valuations of considerably larger installations. As it has been found desirable to add foremanship, use of tools, etc., to unit costs, such items are no longer included in overhead, making such allowance proportionately smaller.
2. The sum of $1,100.00, being cost of a pump which is very rarely used and if used would only be capable of providing about one-seventh of the necessary supply, not allowed, as such pump is neither used nor useful in the operation of the plant. The cost of a certain unused well is not allowed for like reasons.
3. No allowance can be made for going concern value based on the early losses of a utility when such utility was originally built to further real estate promotions and was constructed out of all proportion to the number of consumers being served.
4. The pumping of water does not necessarily establish a prescriptive right to underground water to such an extent as to make such use adverse to the rights of other landowners. No allowance made for water rights.
5. The sum of $500.00 per year is determined upon as a sufficient compensation covering executive management other than superintendence. Depreciation annuity of $4,600.00 per annum allowed.

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Rates: Reduced schedule of rates established embodying a minimum based on size of meter, graduating from 75 cents for a ¾-inch meter to $2.25 for a 2-inch meter, per month. First 500 cubic feet, 15 cents per 100; 500 to 5,000 cubic feet, 10 cents per 100; over 5,000 cubic feet, per month, 6 cents per 100. Rates also established for fire and street sprinkling service, and defendant directed to establish a rule to the effect that consumers residing in separate houses may, on demand, require the installation of a separate meter and service connection.

Gibson, Dunn & Crutcher, by *S. M. Haskins,* for Belvedere Water Company.

D. W. Garwood, for Belvedere Civic Association.

REPORT OF THE COMMISSION.

This proceeding was begun by an order of the Commission to the Belvedere Water Company, hereinafter referred to as the company, to show cause, if any it has, why the Commission should not prescribe reasonable rates, rules and regulations governing the service by it of domestic water to the inhabitants of Belvedere, which adjoins Los Angeles on the northeast. The proceeding is the result of numerous informal complaints concerning the manner in which the company applies its minimum monthly charges to the conditions existing in Belvedere.

Complaint is made that in many instances there are separate services to as many as three small houses on one lot, a separate minimum being charged for each, although the consumption of water is less than the amount allowed under one minimum charge; that in other instances flats and stores in a single building pay a single minimum; that in many cases consistent minimum charges are not made and in other instances consumers protest and charges are not collected.

A change in the minimum would affect the company's income. It thus becomes necessary to investigate all rates.

History.

About 1905, Dr. Peter Janss began operating the nucleus of the present system of the company with service to five or six consumers. At that time he had a small interest in the adjacent Wellington Heights Tract. Soon afterward he began acquiring adjoining properties which he subdivided and sold, extending the water system from time to time to serve the original and new subdivisions. Extensions were made for long distances to serve consumers in new tracts, and in some instances a subdivision would be piped throughout very soon after it was opened, or before.

At the end of the first year the system had about 40 consumers, mostly on two tracts, and by the end of 1906 about one-third of the present system was installed. During 1907 extensions were made to four tracts, and by the end of the year there were about 150 consumers. During 1908 four additional tracts were piped and at the close of the year there

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were between 700 and 1,000 consumers. The company reports that the system began making money in 1909. Its growth has been steady ever since and it now has 2,917 service connections, all of which are metered, and about 2,442 of which are active.

In 1915 the utility part of the business was conveyed to Belvedere Water Company, following a hearing and authorization by the Commission. At the present hearing the company was unable to furnish any financial history of the development of the utility prior to the above transfer. In the early stages of the development no attempt was made to keep a separate set of books relating to the utility, and it was found at the hearing to be impossible to ascertain the amount of capital invested, receipts and disbursements, or cost of maintenance and operation, at either of the periods mentioned above.

Valuation.

Appraisals of the property of Belvedere Water Company were made by the Commission's engineers, R. W. Hawley and C. H. Loveland, and by J. B. Lippincott and Edward R. Bowen, engineers for the company. Each appraisal was explained by its makers, at the hearings. The results of these appraisals are compared in the following table:

Estimated Reproduction Cost New.

	Company's engineers	Commission's engineers
Buildings	$9,557 00	$5,896 00
Reservoirs	6,792 00	5,277 00
Pumping equipment	21,221 00	19,036 00
Wells	14,246 00	8,809 00
Distribution system	83,453 00	69,561 00
Stock and operating equipment	3,900 00	5,400 00
Real estate	10,500 00	6,350 00
Development expense	3,736 00	4,726 00
Operating capital	4,000 00	
Going value	20,000 00	
Water rights	1,000 00	
	$178,405 00	$125,058 00
Meters and services paid for by consumers*	33,173 00	26,433 00
For replacing pavement*	8,000 00	7,000 00

*Appraised for basis of depreciation allowance only.

The principal differences are in allowance for overhead expense, physical structures, valuation of real estate, going concern value, value of water rights and operating capital needed. These subjects will be discussed in the above sequence.

Overhead Expense.

Great stress was placed by Mr. Lippincott upon the importance of suitable allowance for overhead expense. He estimates overhead at $13,667.00 more than the Commission's engineers. His estimates are

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based largely upon his experience in connection with the Los Angeles aqueduct and his estimates of suitable allowance for the Denver Water Works. Both are very large installations and under conditions very different from those existing in Belvedere. He also cited as illustration certain estimates by the Commission for overhead in installing various water works, which were also under conditions dissimilar from those now under consideration.

Mr. Hawley explained that as a result of frequent and thorough analyses and study, the Commission's engineers are now adding costs of foremanship, use of tools, and sundry small items to unit costs, so that the express allowance now made for overhead is less than formerly; and he explained in considerable detail other reasons for his estimates of overhead allowances in this case, and why the installations referred to by Mr. Lippincott were not comparable with the work at Belvedere. He also presented a detailed tabulation showing the overhead used by the Commission's engineers for various classes of construction in thirteen water systems, in some of which the conditions were similar to those found at Belvedere.

As the Belvedere system was constructed at a time when the street work in the subdivision was being done, and many items usually carried by engineers in overhead are carried by the Commission's engineers in unit costs, after careful study of the testimony we find their percentages for overhead costs ample. In the subsequent discussion, overhead is excluded unless mentioned.

Physical Structures.

The difference in appraisal of buildings was shown to be largely in the pumping station on Stephenson avenue. The Commission's engineers showed that the company's appraisal in Application No. 1603, relating to the organization of applicant as a public utility, was $3,750.00, and that the appraisal by Mr. F. C. Finkle of the same property in 1911 for the owner was $3,300.00. The estimate by the Commission's engineers was $3,850.00 and that of Mr. Lippincott was $6,615.00. All of these figures include overhead.

The difference in reservoirs of $804.00 is principally in the estimated cost of concrete work on the Rowan avenue reservoir. Subsequent to hearing the Commission's engineer discovered an error of $224.00, leaving a difference of $580.00. No specific testimony was presented by them on cost of concrete, and the estimate of the company's engineer will be used.

The difference of $646.00 on pumping equipment is due to the inclusion of a Gould's Triplex Pump, at Plant B, by the company's engineers, amounting to $1,100.00, which is excluded by the Commission's engineers as not used or useful. This is offset in part by a higher estimated

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cost of other equipment. This pump is used but seldom, and although the company contends it is of great value as an auxiliary, testimony disclosed that should the principal pump at Plant A be out of commission, this pump can provide only about one-seventh of the necessary supply at the reservoirs.

The difference of $4,598.00 on account of wells is due to exclusion by the Commission's engineers of a shaft approximately 100 feet in depth and a well located in the shaft, because the evidence shows that this property is not used and useful.

The Commission's engineers' excess in stock and operating equipment represents an automobile overlooked in the other appraisal.

Their excess of $600.00 in development expense is due to higher unit prices used by them.

The difference of $4,280.00 on account of distribution system is explained principally by difference in the unit prices used for pipe installed. The difference in the principal item, estimated cost of 2-inch pipe installed, is typical. This cost without overhead is estimated by the company's engineers at 22.9 cents per foot, based upon experience with similar soils at Long Beach, and by the Commission's engineers at 19.5 cents per foot, based on experience with harder soils at San Diego, on proven cost of excavating and backfilling service trenches at Belvedere, and on actual cost of installing 2-inch pipe in other localities in southern California under conditions similar to those existing at Belvedere. The company produced some time slips for labor of installing 1,100 feet of 2-inch pipe, about three-quarters of which was in hard red adobe soil and about one-fourth in soft soil, both being common in the company's territory. The slips do not show the job, amount of pipe laid, where laid, nor whether the service men who did the work were taken off that job for other work. These items were supplied from memory two years after the work was done. What proportion of the company's system is laid in the hard soil referred to does not appear. Under the circumstances, we believe the estimates of the Commission's engineers best supported.

Real Estate.

On real estate there was testimony by witnesses for the company and for Belvedere Civic Association as to values of lots without reference to possible peculiar fitness as sites for plants or reservoirs. The company presented the testimony of a professional appraiser. His appraisal of $10,500.00 is based on a study of each lot and market conditions, made four years ago, and a rather cursory re-examination made shortly before the hearing. It is 20 per cent lower than the appraisal made by him four years ago. The company showed that it has made recent sales in

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this neighborhood at about the appraised prices. Belvedere Civic Association offered the testimony of three real estate agents of the vicinity, who testified as to appraisals by the joint bureau of appraisal of lots similarly located for purposes of taxation. Their highest aggregate appraisal, which they testify is about one-third less than the actual market value two years ago, is about $1,400.00 less than the company's appraisal. Considerable portions of the real estate, particularly at the sites of the reservoir and the Stephenson avenue pumping plant, are not used and useful. As a basis for rates we use $8,250.00 as the value of the real estate used and useful.

Going Concern Value.

The position of the company is that it lost money while building up its business; that such losses are considered a fair measure of going concern value, and that one year's gross revenue at the time of appraisal is often taken as a fair basis of estimate in the absence of exact data; but in this case only $20,000.00, or less than half a current year's gross revenue, is suggested as a proper allowance. As already indicated, the company could not show how much money had been lost in the early stages of the business, but it showed that such losses had ceased in 1909 when the present system was partly constructed.

From the extent of the plant and the number of consumers at the several periods of extension, the losses could not have been very great. It also appears that the system was considerably overbuilt; in several instances entire tracts being piped when there were but few houses to be served. In one instance 1,100 feet of pipe was laid to serve two houses on lots sold by the real estate company. Such a course would probably not have been followed by a company engaged exclusively in any public utility business. The system was constructed as an incident to the development of real estate, and to add value to and aid in selling lands being subdivided. The owners no doubt considered the system part of the real estate investment. The company received large donations on account of extending its system, which tended to minimize or eliminate the losses complained of. The testimony does not satisfactorily show any going concern value which should be allowed for.

Water Rights.

The company claims an arbitrary value of $1,000.00 for water rights, upon the theory that it has acquired prescriptive rights in such waters as underlie its locality in places, and because several of its wells were not successful. Allowance has been made in development expense for dry wells, as shown on the appraisal. It does not appear from the testimony that any prescriptive rights to underground water have been established through use of water to such an extent or in such a manner as to make the use adverse to the rights of other landowners. (See

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City of Coalinga vs. *Coalinga Consolidated Water Company*, Vol. 6, Opinions and Orders Railroad Commission, State of California, p. 33.) No testimony was offered as to value of such alleged rights further than Mr. Lippincott's statement that $1,000.00 was considered by him a nominal value. In the absence of showing of such water rights or their value, we do not make any allowance therefor.

No sufficient showing was made of the necessity for keeping $4,000.00 on hand as operating capital. We think $2,000.00 should be more than sufficient for this purpose, and we have included that sum in our valuation.

We have concluded to use for the purpose of computing rates a valuation of $129,762.00.

Maintenance and Operation.

The company has been charged for executive management other than superintendence, one-eighth of the $24,000.00 in annual salaries paid for the management of the eight companies, of which it is one, operated from the same office.

While we have no doubt the company has had the benefit of high-class business advice and of the engineering skill possessed by one of its officers, a continuance of such expense is not justified. The advice and skill referred to relate principally to the installation of the system which is properly chargeable to capital and is included in the overhead allowance in the above appraisal. We have allowed for executive management other than superintendence the sum of $500.00 per year, which should be sufficient compensation for the determination of questions of policy and administration relating to the management of the business.

The company's engineers show in their appraisal accrued depreciation of the property and an annual straight line depreciation allowance to cover a continuance of such depreciation. The Commission's engineers do not show in their appraisal any accrued depreciation, but compute and show a sinking fund annuity which, compounded at 5 per cent interest during the life of the property, would be sufficient to replace it when its usefulness has ceased. Mr. Lippincott testified that these two methods had been shown by numerous tests to produce substantially the same results. We will, therefore, use the annuity computed by the Commission's engineers, which is $4,600.00 per annum.

The company's operating expenses, as shown by its books, amounted to $24,395.00 in 1914, and $24,925.00 in 1915. These amounts, however, included numerous items which were properly chargeable to capital installed rather than to maintenance and operation. A careful analysis of these expenditures for the last two years and estimates for the future show that $19,000.00 will probably be ample for the annual cost of

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maintenance and operation. The annual reports of the company for the years 1913, 1914 and 1915, show an average annual increase in water sales of 6 per cent per annum, which it is fair to assume will continue.

Minimum Payments.

Of the $42,118.00 collected in 1915 from water sales to individuals, $37,389.00 was obtained from the minimum payments of $1.25 per month per connection or from separate dwellings or businesses. The Belvedere Civic Association filed as its Exhibit "A," a map showing the location of all dwellings and business places served, which map was stipulated to be correct. We find thereon 2,229 single establishments, occupying at least one lot; 428 establishments two on a lot; and 311 establishments three on a lot. Of those having two or three on a lot, 76 are not charged separate minima. It was reported at the time of hearing that there were 2,436 active connections. The record of last year's operations shows the maximum number of services during the year to be 2,519 and the minimum to be 2,480. The appraisals show that there are 2,728 meters and 2,917 services. A number of services were installed with the mains and have never been used. The map shows 2,692 premises served. It is apparent that there are 36 idle meters. The great number of consumer months use of small amounts of water shows an existing discrimination against consumers of small amounts. We have endeavored to provide relief by the rate fixed herein through a lower minimum, and yet allow an adequate return to the company upon its investment.

After a careful study of the tables of water use furnished by the company showing the monthly use in varying amounts from 100 cubic feet or less to over 1,000 cubic feet, we have provided a rate set forth in the order which, based upon records of use, will produce an income amply sufficient to provide for maintenance and operation, depreciation and an adequate return to the company upon the fair value of its property.

ORDER.

The Railroad Commission of the state of California having by order of January 25, 1916, instituted an investigation into the matter of the rates and services of the Belvedere Water Company, and a public hearing having been held, and the matter being now ready for determination,

It is hereby found as a fact by the Railroad Commission of the state of California that the rates for water charged by Belvedere Water Company in so far as they differ from the rates herein found to be reasonable are unreasonable and unjust; and the rates hereinafter set forth are hereby found to be just and reasonable rates to be charged by said

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company for the distribution of water to its consumers; and basing its order on the foregoing findings of fact and on the further findings of fact set forth in the opinion preceding this order,

It is hereby ordered that Belvedere Water Company be and it is hereby directed to establish and file with the Railroad Commission within twenty days from the date of this order the following rate schedule effective September 15, 1916, to be charged its consumers for water service in Belvedere and vicinity:

For water used up to 500 cubic feet, 15 cents per 100 cubic feet.
Between 500 cubic feet and 5,000 cubic feet, 10 cents per 100 cubic feet.
Use in excess of 5,000 cubic feet at 6 cents per 100 cubic feet.
Monthly minimum payments to be:
Service ¾ inch diameter and less, 75 cents.
Service 1 inch diameter, $1.25.
Service 1½ inch diameter, $1.75.
Service 2 inch diameter, $2.25.
Fire hydrant rental, $1.50 per month per hydrant, including water used for fires.
Public use, sprinkling charges and flushing sewers and streets, 6 cents per 100 cubic feet.

It is further ordered that Belvedere Water Company file with the Railroad Commission within twenty days from the effective date of this order its rules and regulations for the service of water, which rules and regulations shall include the following rule:

> Where water is supplied through one connection and meter to more than one independent user each such user, when in a separate building, may be required to make separate payment; provided, however, that upon application each such independent user, when in a separate building, may demand and must be furnished a separate meter and connection to the property line or street or alley nearest the point of use.

Dated at San Francisco, California, this 26th day of August, 1916.

DECISION No. 3600.

IN THE MATTER OF THE APPLICATION OF THE CRESCENT CITY LIGHT, WATER AND POWER COMPANY FOR AUTHORIZATION TO SELL ITS BUSINESS, FRANCHISE, REAL AND PERSONAL PROPERTY TO J. M. HOTCHKISS.

Application No. 2520.

Decided August 26, 1916.

Crescent City Light, Water and Power Company authorized to transfer its property and franchise to J. M. Hotchkiss for the sum of $2,100.00 in cash, and the release of a claim in the sum of $2,922.00, provided that the amount paid shall not be binding upon the Commission in a rate fixing or other inquiry.

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REPORT OF THE COMMISSION.

Crescent City Light, Water and Power Company having applied to this Commission for authority to sell to J. M. Hotchkiss for the sum of twenty-one hundred dollars ($2,100) in cash, and the release and satisfaction of a certain claim of the Hobbs-Wall & Company against said Crescent City Light, Water and Power Company amounting to twenty-nine hundred and twenty-two dollars ($2,922), with interest at the rate of 7 per cent per annum from the 8th day of October, 1913, in accordance with the form of deed attached to the application in this proceeding and marked "Exhibit A," the following described property, to wit:

Being the block of land bounded by "E" Street, Ninth Street, "F" Street and Tenth Street of said City, together with all buildings and fixtures on said premises, and the following described personal property, to wit:

1—14" x 12", 75 H.P., 1 cyl. Atlas Eng. on concrete foundation.
1—45 KW. generator.
1—Boiler Feed Pump.
1—4' x 12" fire tube boiler with steam drum 5' x 2'.
54—3" tubes 60 H.P.
1—2½' x 30' No. 10 plate stack (down).
1—48" x 14' fire tubes boiler with steam drum 5' x 2'.
48—3" tubes—4 H.P.
1—2½' x 30', No. 10 plate stack (up).
1—Henshaw-Bulkley 200 H.P. boiler 5' x 16'.
52—4" tubes, well set, 26" brick.
1—Same as above, not set.
1—40' x 3' 3/32 plate stack (up).
1—Same as above—down in 2 pieces.
5,000 second-hand red brick.
1—Skinner center crank automatic 125 H.P. engine, 14" x 18" cyl. non cond.
1—Stanley type 3 P Generator 60 cyl. 2300 v. 220 KW 600 R.P.M. concrete foundation.
1—G.E. class 2- 45- 1800 exciter 125 v. 125 v. 26 a. 1800 R.P.M. wood foundation.
1—2½ x 5' marble switchboard panel.
1—Thompson G.E. sw. bd. type Voltmeter.
1—Thompson G.E. sw. bd. type Ammeter.
1—G.E. type F. form 1 150 a 2500 v. oil sw.
1—Rheostat sw. bd. type.
1—2200 to 110 v 75 Watt Potential transf.
1—Resistance box for Voltmeter.
1—14" x ⅜" x 65' belt.
1—2½' x 8' home made feedwater Heater.
1—No. 4 National Feedwater Heater.
1—9 x 14' face Flywheel.
1—Joshua Hendy Engine, 4' x 6' cyl.
1—Worthington 5½ x 3½ x 5 Duplex Pump.
1—Westinghouse 125 v. 5 a. 2000 R.P.M. No. 62009 Exciter.
1—3' x 15' 3/32 plate stack.
32—3' boiler tubes at $2.00.
2—5 KW Pittsburg Transformers.

All piping, tools, poles, cross-arms, transformers, insulators, street lights, wires, meters and supplies, machinery and equipment of every nature, now belonging to Crescent City Light, Water and Power Company, a corporation, or in which said corporation has any interest.

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And J. M. Hotchkiss having joined in this application and the Commission being of the opinion that this is not a case in which a public hearing is necessary, and that the application should be granted,

It is hereby ordered that the application in this proceeding be and the same is hereby granted upon the following conditions, and not otherwise, to wit:

1. The consideration paid for the property herein authorized to be transferred shall not be taken before this Commission, or any other public body for rate fixing or other purposes, as being the actual value of the property transferred;
2. The authority herein granted to transfer property shall be effective only up to and including September 30, 1916.

Dated at San Francisco, California, this 26th day of August, 1916.

Decision No. 3601, grade crossing; not printed. See end of volume.

DECISION NO. 3602.

IN THE MATTER OF THE APPLICATION OF LINDSAY HOME TELEPHONE AND TELEGRAPH COMPANY FOR AUTHORITY TO ISSUE BONDS.

Application No. 2324.

Decided August 28, 1916.

Applicant authorized to execute a deed of trust and to issue thereunder $7,800.00 face value of bonds to be sold at not less than 93, proceeds to be used for the purpose of refunding two certain promissory notes, the balance for improvements to its system. Recommendation made that improvements of smaller utilities should be financed through issues of stock instead of bonds and suggestion made that future improvements of applicant be so provided for.

A. M. Robertson, for Applicant.

REPORT OF THE COMMISSION.

This application, as amended by leave of the Commission, requests authority to execute a deed of trust on applicant's property securing a bonded indebtedness of $15,000.00, represented by 150 six per cent serial bonds of the face value of $100.00, each maturing from 1919 to 1933, inclusive, and to issue at 93 per cent of their face value, bonds of the total face value of $8,000.00.

A public hearing was held in Lindsay on June 21, 1916. From the evidence it appears that applicant operates a telephone exchange in an area comprised within a six-mile radius of the center of Lindsay, Tulare County, with the exception of a small portion of said territory which is operated from the exchange at Exeter.

Applicant's entire capital stock, consisting of 25,000 shares of the par value of $1.00 each, is now issued and outstanding; 8,084 shares of

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which were issued in part payment for the original plant purchased by applicant, the remaining 16,916 shares having been issued and sold on a basis which netted applicant an average of 72.6 cents per share. It further appears that applicant's sole indebtedness, with the exception of its current bills, consists of two notes in favor of the First National Bank of Lindsay, aggregating $4,800.00, one note for $3,300.00, which was issued December 15, 1914, the other for $1,500.00, which was issued January 11, 1915, both of which mature in January, 1918.

It further appears that applicant purchased its original plant from one J. G. Kirkman in 1911, at a total price of $15,945.00, represented by $7,861.00 in cash and 8,084 shares of stock of the par value of $1.00 each. Applicant submitted an inventory of the reproduction cost of its physical property, totalling $19,856.67. No allowance was made by applicant for depreciation, but according to the testimony the central office equipment is not more than four and one-half years old, the remainder of the equipment varying in age from six months to three years. No appraisal has been made of applicant's property by the engineering department of this Commission, and nothing in this opinion shall be construed as passing upon the value of the reproduction cost of the same. Applicant submitted the following statement of its income and surplus accounts for the last three years:

Income and Surplus Accounts.

	1913	1914	1915
Operating revenues	$6,698 72	$7,616 88	$7,990 61
Operating expenses	3,405 42	4,033 53	4,657 73
Net operating revenue	$3,293 30	$3,583 35	$3,332 88
Taxes	----------	278 04	331 18
Miscellaneous deductions	----------	17 90	----------
Operating income	$3,293 30	$3,287 41	$3,001 70
Nonoperating revenue	106 60	99 36	----------
Gross income	$3,399 90	$3,386 77	$3,001 70
Interest deductions	----------	209 74	----------
Amortization of debt discount and expense	----------	1,175 77	783 84
Net income	$3,399 90	$2,001 26	$2,217 86
Disposition of net income—			
Depreciation reserve	$920 41	$1,323 98	$1,559 00
Balance transferred to surplus account	$2,479 49	$677 28	$658 86
Balance in surplus account at beginning of year	----------	2,479 49	2,043 47
Total	$2,479 49	$3,156 77	$2,702 33
Dividends	----------	----------	1,000 00
Amortization unprovided for elsewhere	----------	1,113 30	----------
Surplus at end of year	$2,479 49	$2,043 47	$1,702 33

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Applicant also submitted a balance sheet as of December 31, 1915, an abstract of which is as follows:

Balance Sheet.

Assets.

Fixed capital	$28,661 47
Cash	506 52
Due from subscribers and agents	610 39
Accounts receivable	375 46
Unextinguished discount on capital stock	1,234 54
Unamortized debt, discount and expense	333 17
Total assets	$31,721 55

Liabilities.

Capital stock	$25,000 00
Bills payable	4,800 00
Deposits	47 50
Accounts payable	171 72
Corporate surplus unappropriated	1,702 33
Total liabilities	$31,721 55

Applicant desires to apply $4,800.00 of the proceeds of the proposed issue to retiring its notes above mentioned, and $2,554.82 thereof to reimbursing its treasury for various expenditures. Applicant furthermore states that it plans to use the money so reimbursed in changing its system from a magneto to a common battery equipment.

As suggested at the hearing, this Commission does not consider the creation of a bonded indebtedness the best manner of financing as small a company as applicant; it considers it far preferable for a company of this size to meet its temporary requirements by note issue and its permanent requirements by stock issue, but under all the circumstances of this case, including the fact that applicant has made arrangements with Bank and Trust Company of Central California to purchase all of the bonds herein authorized to be issued at 93, while it might have some difficulty in selling its stock, and the fact that the entire expenses of creating the bonded indebtedness including attorney's fees, trustee's fees and the printing of the bonds will not exceed $275.00, we feel that applicant should be authorized to create the bonded indebtedness as requested—upon the distinct understanding, however, that it will endeavor in the future to meet its capital requirements by the sale of additional stock rather than by the issue of the remainder of its bonds. Applicant has failed to file a draft of its proposed deed of trust, and our order will accordingly be conditioned upon the submission of a mortgage or deed of trust satisfactory to this Commission.

We shall not authorize applicant to reimburse its treasury, as its request for such reimbursement was made, according to our understanding, merely for the purpose of furnishing funds with which to

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install a common battery equipment, provision for which is made in the following order:

ORDER.

Lindsay Home Telephone and Telegraph Company, a corporation, having applied to the Railroad Commission for an order authorizing the creation of a bonded indebtedness of $15,000.00 and the issue of $8,000.00 face value of bonds at not less than 93 per cent of their face value, and a public hearing having been held upon said application, and this Commission finding that the purposes for which said bonds or the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that the application should be granted, subject to conditions hereinafter set forth,

It is hereby ordered that Lindsay Home Telephone and Telegraph Company be and the same is hereby authorized to execute a mortgage or deed of trust of all its property to Bank and Trust Company of Central California, of Fresno, to secure a bonded indebtedness of $15,000.00 face value of serial bonds maturing from 1919 to 1933, inclusive, said bonds to be of the face value of $100.00 each, and to bear interest at the rate of six per cent per annum.

It is hereby further ordered that Lindsay Home Telephone and Telegraph Company be and the same is hereby granted authority to issue $7,800.00 face value of said bonds.

The authority herein granted to execute said mortgage or deed of trust, and to issue said bonds, is granted upon the following conditions and not otherwise:

1. Lindsay Home Telephone and Telegraph Company shall issue said bonds so as to net said company not less than 93 per cent of the face value of the principal thereof and accrued interest thereon.

2. Before the mortgage or deed of trust herein authorized shall be executed, or the bonds herein authorized shall be issued, applicant shall present to this Commission, in duplicate, a draft of said mortgage or deed of trust and shall have obtained a supplemental order from this Commission approving the same.

3. The proceeds of the bonds herein authorized to be issued shall be applied as follows:

(*a*) To refund applicant's two notes to the First National Bank of Lindsay, referred to in the foregoing opinion	$4,800 00
(*b*) To change applicant's present magneto equipment to a common battery equipment, approximately	2,454 00
Total	$7,254 00

4. No bond herein authorized to be issued which matures earlier than the average date of maturity of all the bonds herein authorized to be

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issued, shall be issued or sold before all of the said bonds of a later maturity have been sold.

5. Applicant shall before issuing any of the bonds herein authorized furnish this Commission satisfactory evidence as to the rights or franchise under which it operates in the city of Lindsay.

6. The authority herein granted to execute the mortgage or deed of trust above mentioned, and to issue the bonds as above mentioned, shall apply only to such mortgage or deed of trust as shall have been executed and to such bonds as shall have been issued on or before March 31, 1917.

7. Lindsay Home Telephone and Telegraph Company shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of the sale of the bonds herein authorized to be issued; and on or before the twenty-fifth day of each month the company shall make a verified report to this Commission stating the sale or sales of the said bonds during the preceding month, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order in so far as applicable is made a part of this order.

8. This order shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 28th day of August, 1916.

DECISION NO. 3603.

IN THE MATTER OF THE APPLICATION OF VALLEY PIPE LINE COMPANY FOR AUTHORITY TO ISSUE STOCK.

Application No. 1246.

Decided August 30, 1916.

REPORT OF THE COMMISSION.

LOVELAND, *Commissioner.*

EIGHTH SUPPLEMENTAL ORDER.

Whereas this Commission, on August 12, 1916 (Decision No. 3576), authorized the applicant herein to issue 2,876¼ shares of its capital stock to Anglo-Saxon Petroleum Company, on conditions set out in said order; and

Whereas applicant requests that the stock be issued to Shell Company of California,

It is hereby ordered that the order in Decision No. 3576 be amended so that the 2,876¼ shares of stock therein authorized to be issued to Anglo-

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Saxon Petroleum Company may be issued to Shell Company of California.

It is further ordered that all of the conditions set out in said Decision No. 3576 shall remain in full force and effect in so far as not in conflict with this eighth supplemental order herein.

The foregoing eighth supplemental order is hereby approved and ordered filed as the eighth supplemental order of the Railroad Commission of California.

Dated at San Francisco, California, this 30th day of August, 1916.

Decision No. 3604, grade crossing; not printed. See end of volume.

DECISION No. 3605.

R. J. ROBINSON
vs.
MRS. F. A. GREEN.

Case No. 963.

Decided August 31, 1916.

Complaint to compel defendant to serve complainant, who heretofore had received such service, with water for irrigation.

***Held,* That not only complainant, but her predecessors, had for a considerable period of time, served complainant and other neighbors with water; that defendant has considerable excess water and is under obligation to continue service to complainant; such service directed and rate of $30.00 per annum established therefor.**

R. J. Robinson, in propria persona.

C. H. Braynard and *C. F. Kimball,* for Defendant.

REPORT OF THE COMMISSION.

This case is brought by R. J. Robinson, a farmer and stock raiser in the vicinity of Ono, Shasta County, California, against his neighbor, Mrs. F. A. Green, requesting this Commission to order Mrs. Green to furnish complainant with two miner's inches of water for twenty-four hours twice a week.

A public hearing was held at Redding August 15, 1916. From the evidence it appears that defendant obtains about fifty inches of water from the stream known as Jerusalem Creek, by means of a ditch and flume approximately six miles long; and that, with the exception of one year, complainant has been purchasing and using water for the last sixteen years from defendant and her predecessors in interest for the irrigation of his plot of cultivated land. The amount of land irrigated

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by complainant has varied from one to two acres; for the last six years he has not irrigated more than one acre.

Defendant contended that this Commission had no jurisdiction, upon the theory that defendant was not a public utility and that she had merely been selling surplus water to complainant. There was a sharp conflict of testimony on the question of whether or not defendant had been selling complainant only the surplus water, but under our view of the case it is not necessary to decide this point.

For ten years previous to the acquisition by defendant of her property, complainant had been buying water from her predecessors in interest, and, accordingly, he had certain rights which Mrs. Green was bound to respect when she bought the property. Moreover, Mrs. Green has not only been receiving a very adequate compensation from the complainant for the water he has obtained from her, but she has been receiving twenty-five (25) dollars per year from each of three stock raisers whose property lies below defendant's ranch, and who have been using her surplus water for watering their stock.

Moreover, the testimony of Milo H. Brinkley, one of the Commission's engineers, shows that approximately fifteen inches of water in defendant's ditch was running to waste at the time he made his examination of the premises, and that her flume was leaking badly in several places.

From all the evidence we find that defendant is a public utility and as such is under an obligation to furnish complainant the amount of water he has asked for in his complaint, and we further find that the sum of thirty (30) dollars per year, which complainant paid defendant for three years, is ample compensation for the services rendered.

ORDER.

R. J. Robinson having filed complaint with this Commission for an order requiring defendant to furnish him two miner's inches of water for twenty-four hours twice a week, and a public hearing having been held, and this Commission finding that defendant is a public utility under the terms of the Public Utilities Act and that complainant is entitled to the amount of water asked for in his complaint,

It is hereby ordered that defendant be and she is hereby ordered to furnish complainant with two miner's inches of water for twenty-four hours twice a week for the sum of thirty (30) dollars per annum.

Dated at San Francisco, California, this 31st day of August, 1916.

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Decision No. 3606.

IN THE MATTER OF THE APPLICATION OF CORCORAN WATER AND GAS COMPANY FOR AN ORDER AUTHORIZING ISSUE OF BONDS.

Application No. 2390.

Decided August 31, 1916.

Applicant having heretofore been directed by the Commission to install certain needed improvements, applies for and is granted permission to issue $10,000.00 face value of 6 per cent bonds and to execute a mortgage securing same, such bonds to be sold at not less than 91, proceeds to be used for improvements as specified.

Frank E. Kilpatrick, for Applicant.

K. Van Zante, for City of Corcoran.

Report of the Commission.

This is an application by Corcoran Water and Gas Company, a California corporation, engaged in the business of furnishing water to the inhabitants of the city of Corcoran, Kings County, for authority to create a bonded indebtedness of $15,000.00, represented by 150 six per cent bonds of the face value of $100.00 each, and to issue at this time $10,000.00 face value of said bonds. These bonds will mature as follows:

Number	Face value	Maturity
10	$1,000 00	1918
10	1,000 00	1919
10	1,000 00	1920
10	1,000 00	1921
20	2,000 00	1922
20	2,000 00	1923
20	2,000 00	1924

A public hearing was held in Corcoran, August 1, 1916. From the evidence it appears that applicant desires to sell $10,000.00 face value of said bonds at a price which will yield the purchasers 8 per cent interest upon their investment. If the first 100 bonds to mature are sold, the average price would be approximately $91.00 per bond. Applicant desires to use the proceeds of this issue for the purpose of installing a steel tank upon an 80-foot tower in pursuance of the order of this Commission made in Case No. 915, entitled *The City of Corcoran* vs. *Corcoran Water and Gas Company* (Decision No. 3222, dated April 1, 1916), and installing certain pipe referred to in said decision, all of which purposes are more particularly set forth in the order following this opinion.

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From the evidence it appears that applicant has in good faith endeavored to comply with the Commission's order above mentioned, and has actually contracted for the tank and the tower and has commenced the construction of the concrete foundation for the same, although applicant has not the funds with which to pay for these improvements. Applicant's president, Mr. J. B. Mayer, has endeavored to raise the necessary capital upon the company's note, secured by a mortgage of its property, which would in our opinion be a far better way to finance the proposition than by a bond issue; but he has been unable to obtain such a loan while, according to his testimony, the Bank and Trust Company of Central California has agreed to purchase the entire issue of bonds to be sold at this time.

As set forth in Decision No. 3222 (supra), the engineering department of this Commission has estimated the reproduction cost new of applicant's plant at $17,634.00, and the cost new less depreciation (computed upon the sinking fund basis) at $13,822.00.

Applicant reported revenues and expenses for the last three years as follows:

	1915	1914	1913
Revenues	$3,093 32	$3,771 74	$2,961 68
Expenses	3,131 65	3,803 56	2,528 60
Net gain	*$38 33	*$31 82	$433 08

*Loss.

Applicant also submits the following balance sheet as of December 31, 1915:

Assets.

Fixed capital installed	$14,573 67
Cash and deposits	137 52
Accounts receivable	22 82
Total assets	$14,734 01

Liabilities.

Capital stock outstanding	$11,208 00
Notes payable	300 00
Accounts payable	332 60
Reserved for accrued depreciation	560 40
Corporate surplus unappropriated	2,333 01
Total liabilities	$14,734 01

From the above statements it will be seen that applicant's expenses are practically equal to its present revenue and accordingly, under its present rates, it will have practically no net income with which to pay the interest upon its proposed bond issue.

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The company has stated that it can not give good service under the present rates, and during the hearing of Case No. 915, above referred to, the officers of the city of Corcoran stated that their constituents were willing to pay increased rates if the company would give them satisfactory service. In the decision in that case (Decision No. 3222) the Commission stated as follows:

> "The question of rates was also discussed at the hearing and counsel for complainant stated that the citizens of Corcoran were willing to pay whatever rates might be necessary in order to enable the water company to give adequate service. We can not, of course, authorize applicant to increase its rates when it is not giving even fair service to its consumers, but if, after defendant has installed and put into service the improvements hereinafter ordered, it wishes to make an application for an increase in rates, this Commission would naturally expect to authorize it to charge such rates as might be reasonable, considering the value of its plant and the quality of its service."

If applicant installs its contemplated improvements, there is little question in our mind but what its service will be very materially improved. Applicant failed to submit its proposed trust deed for the approval of this Commission and it will, of course, be necessary for it to submit a trust deed in form and substance satisfactory to this Commission before we can finally authorize the bond issue herein requested.

For the reasons above set forth, the application should, in our opinion, be granted subject to certain conditions set forth in the order.

ORDER.

Corcoran Water and Gas Company having applied to the Railroad Commission for authority to create a bonded indebtedness of $15,000.00, as evidenced by 150 serial 6 per cent bonds of the face value of $100.00 each, and to issue and sell $10,000.00 face value of said bonds at a price to yield the purchasers 8 per cent per annum upon the same, and a public hearing having been held and this Commission finding that the purposes for which said bonds or the proceeds thereof are to be used are not in whole or in part reasonably chargeable to operating expenses or to income, and that for the reasons set forth in the foregoing opinion the application should be granted subject to the conditions hereinafter set forth,

It is hereby ordered that Corcoran Water and Gas Company be and the same is hereby authorized to execute a mortgage or deed of trust of its properties to secure a bonded indebtedness of $15,000.00 face value of serial 6 per cent bonds.

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It is hereby further ordered that Corcoran Water and Gas Company be and the same is hereby authorized to issue and sell $10,000.00 face value of said bonds.

The authority herein granted to applicant to execute a mortgage of its properties and to issue $10,000.00 face value of its bonds is granted upon the following conditions and not otherwise:

1. Corcoran Water and Gas Company shall issue said bonds so as to net said company not less than 91 per cent of the face value of the principal thereof in addition to accrued interest thereon.

2. The proceeds of the bonds herein authorized to be issued shall be applied substantially as follows:

Installing 50,000-gallon tank and 80-foot tower	$3,835 00
Foundation for same	300 00
Readjustment of pumping equipment	600 00
Mains (1,000 feet 8"; 2,000 feet 6"; 4,000 feet 4")	2,533 76
Laying mains	800 00
Fittings	531 24
To be held in applicant's treasury and not to be expended except upon a further order of this Commission	500 00
Total	$9,100 00

3. Applicant shall submit to this Commission the proposed mortgage or deed of trust securing said bond issue and shall not execute said instrument or issue any bonds under this order until it shall have obtained a supplemental order of this Commission approving said mortgage or deed of trust.

4. The authority herein granted to execute the mortgage or deed of trust above mentioned and to issue the bonds above set forth shall apply only to such mortgage or deed of trust as shall have been executed and to such bonds as shall have been issued on or before March 31, 1917.

5. Applicant shall not issue any portion of the 100 bonds herein authorized to be issued and sold until it shall have a valid contract or contracts for the sale of all of said bonds.

6. Applicant shall report to this Commission within thirty (30) days after the issue of the bonds herein authorized the face value of the bonds so issued, the net amounts received therefor and the disposition of the proceeds thereof, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. This order shall not become effective until applicant has paid the fee specified in section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 31st day of August, 1916.

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DECISION No. 3607.

TOWN OF SAN ANSELMO
vs.
MARIN WATER AND POWER COMPANY.

Case No. 611.

TOWN OF SAUSALITO
vs.
MARIN WATER AND POWER COMPANY.

Case No. 731.

IN THE MATTER OF THE APPLICATION OF MARIN WATER AND POWER COMPANY FOR AN ORDER ESTABLISHING THE RATES TO BE CHARGED BY SAID COMPANY FOR WATER.

Application No. 1508.

Decided August 31, 1916.

Complaints and application petitioning the Commission to establish just and reasonable rates for water in territory served by respondent.

Held, When a valuation is made of a utility's property for condemnation purposes, and such value is afterwards used as a basis for fixing rates, the value of all nonoperative properties should be deducted, and the cost of all improvements made subsequent to the original findings added thereto. The sum of $69,890.00 is found to be a fair return upon the value of applicant's used and useful property. Depreciation annuity on the sinking fund basis fixed at $6,815.00.

Held, That the metering of respondent's entire system will effect a reduction in operating expenses, in that it will materially reduce the amount of water used and proportionately affect pumping expenses, etc. The amount paid as salaries to officers is questioned as being too large for a company of this size, as is also the necessity of maintaining two offices. Operating expenses established accordingly and the sum of $51,215.95 is allowed under this head. A fair gross annual revenue is found to be $128,110.00.

Rates: Minimum, $1.00 per month, entitling consumer to 280 cubic feet; between 280 and 1,000 cubic feet, 25 cents per 100; over 1,000 cubic feet, 20 cents per 100. Street sprinkling, 20 cents per 100 cubic feet; fire hydrants, $1.50 per month each. On Sausalito pipe line, minimum, $1.00 per month, covering 280 cubic feet; over 280 cubic feet, 25 cents per 100; on San Quentin pipe line, minimum, $1.00 per month, covering 280 cubic feet; over 280 cubic feet, 21½ cents per 100.

Mason & Locke, by *W. J. Locke*, for Town of San Anselmo.

Thomas, Beedy & Lanagan, by *James Lanagan*, for Town of Sausalito.

Lilienthal, McKinstry & Raymond, by *J. F. Haber, Jr.*, for Marin Water and Power Company.

REPORT OF THE COMMISSION.

THELEN, *Commissioner*.

The above three proceedings place in issue before the Railroad Commission the reasonableness of the rates charged by Marin Water

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and Power Company for water sold for domestic and other purposes in the southern portion of Marin County.

The complaint in Case No. 611 alleges, in effect, that Marin Water and Power Company, hereinafter referred to as the water company, has made it a practice to require the owners of new tracts or subdivisions of land in the town of San Anselmo to pay to the water company in advance the cost of constructing and installing distributing pipe systems in said tracts or subdivisions, and that the water company has included the cost of said distributing pipe systems in its capital investment upon which it asks a return; that the meter rates and the flat rates charged by the water company in San Anselmo are unreasonably high; and, in particular, that the minimum meter rate of $2.00 charged by the water company in the town of San Anselmo is unfairly high. The complaint asks that the fair value of the distributing systems in the tracts and subdivisions referred to be deducted from the capital on which a return is allowed; that reasonable flat rates and meter rates to be charged in the town of San Anselmo be established; and, in particular, that the minimum meter rate in the town of San Anselmo be reduced from $2.00 to $1.00 per month. The answer denies the material allegations of the complaint and asks that the Railroad Commission establish just and reasonable rates to be charged by the water company in the town of San Anselmo.

The complaint in Case No. 731 alleges, in effect, that the town of Sausalito owns and operates a municipal water distributing system; that the town secures its water by purchase at wholesale from the water company under contract dated March 8, 1909, between the town of Sausalito and Marin Water and Power Company, a copy of which contract is inserted in the complaint; that said contract provides, in part, that the water company shall construct a pipe line of adequate size from Corte Madera to the town of Sausalito and thereafter supply to the town of Sausalito such water as the town may need; that the rate established by said contract to be paid by the town of Sausalito to the water company is as set forth in said contract, with a minimum payment for not less than 200,000 gallons per day for each year during the life of the contract, which contract is to continue in force for a period of ten years from August 1, 1909; that the town of Sausalito is unable to use the minimum amount of 200,000 gallons per day; and that the rate established by the contract is unreasonably high. The complaint alleges other matters to which it is not necessary here to refer for the reason that we are concerned only with the establishment of a just and reasonable rate for water sold by the water company to the town of Sausalito. The complaint asks the Railroad Commission to establish just and reasonable rates to be paid by the town of Sausalito for water

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supplied by the water company. The water company thereafter filed its written motion to dismiss the complaint by reason of alleged lack of jurisdiction in the Railroad Commission. A public hearing was held on this motion and the motion was thereafter denied (Vol. 8, Opinions and Orders of the Railroad Commission of California, p. 252). The water company thereafter filed its answer denying the material allegations of the complaint.

Subsequent to the filing of the complaints in Cases Nos. 611 and 731, Marin Water and Power Company filed its petition in Application No. 1508, asking the Railroad Commission to establish just and reasonable rates to be charged by the water company for all classes of service throughout the territory served by the water company as a public utility.

By consent of all parties, these three proceedings were consolidated for hearing and decision. The completion of the taking of testimony was deferred for the reason that it was assumed that the property of Marin Water and Power Company would later be taken over by Marin Municipal Water District at the compensation established by the Railroad Commission in Application No. 1141, entitled *In the Matter of the Application of Marin Municipal Water District for an Order of the Railroad Commission Fixing and Determining the Just Compensation to be Paid to Marin Water and Power Company for its Lands, Property and Rights* (Vol. 6, Opinions and Orders of the Railroad Commission of California, p. 507). The Railroad Commission's decision on said application was rendered on April 9, 1915, in Decision No. 2279. Litigation has delayed the transfer of this property. Upon being advised by Marin Municipal Water District that the district would not be embarrassed by a decision in these proceedings rendered prior to the taking over of the property, the final hearing in these proceedings was set and the proceedings submitted on June 23, 1916.

The property owned by the water company, the elements entering into the value of this property, the territory served, and the method of operating the system, are fully set forth in said Decision No. 2279, in Application No. 1141, to which decision reference is hereby made. By stipulation of all parties, the testimony in Application No. 1141 is a part of the record in these proceedings.

The subject matter of this opinion will be discussed under the following heads:

1. Value of Property.
2. Depreciation Annuity.
3. Maintenance and Operating Expenses.
4. Rates Now in Effect.
5. Rates Herein Established.

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1. Value of Property.

The facts bearing on the value of the property of the water company as of June 30, 1914, are fully set forth in said Decision No. 2279. The reproduction cost new of the physical structures of the water company as of June 30, 1914, including all nonoperative structures, was estimated by the Railroad Commission's engineers to be $972,543.00. The cost to reproduce new, less depreciation of these structures, was estimated by them to be $763,028.00.

This being a rate case, certain deductions must be made for property which is nonoperative. Additions must also be made for additions and betterments subsequent to June 30, 1914.

Railroad Commission's Exhibit No. 1 herein shows that after deducting the estimated reproduction cost new of nonoperative structures, the estimated reproduction cost new of the remaining physical structures, as estimated by the Railroad Commission's hydraulic engineers as of June 30, 1914, is the sum of $897,041.00. The further sum of $3,837.00, being the estimated reproduction cost new of the Coleman Reservoir, should also be deducted, thus leaving a total estimated cost to reproduce new the used and useful physical structures as of June 30, 1914, of $893,204.00.

Additions and betterments have been made by the Water Company subsequent to June 30, 1914, as follows:

July 1 to December 31, 1914 (Railroad Commission's Exhibit No. 5)	$3,447 68
January 1, 1915, to December 31, 1915 (Railroad Commission's Exhibit No. 6)	10,257 93
Additional overhead percentages	1,026 00
Total	$14,731 61

The addition of said sum of $14,731.61 to the sum of $893,204.00 gives a total estimated reproduction cost new of the used and useful physical structures of the water company as of January 1, 1916, amounting to $907,935.61.

Referring now to the subject of real property, as distinguished from physical structures, deductions from the figures used in Application No. 1141 must be made for such lands as are not now used and useful in the water company's service to the public. Deductions must be made for a portion of the Porteous Tract, the Lagunitas Dairy Tract, the Worn Springs Tract and the Coleman Reservoir lots. While the Coleman Reservoir, located in San Rafael, is used to supply water to some 13 customers, more or less, it is clear from the testimony that these customers could be served at practically no additional expense without the use of this reservoir, and that the Coleman Reservoir and lots can be severed from its water system by the water company without substantial injury. In view of this situation, it would not be fair to charge

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the Coleman lots and reservoir to the ratepayers under this system. Without making any deductions by reason of recent events which have raised a doubt in my mind with reference to the value of the lands of the water company, under the system as now constructed, as producers of water, I conclude that it would be reasonable to add to the value of the physical structures the sum of $80,495.00 as the value of used and useful lands and water rights, thus making a total of $988,430.61 for the sum of reproduction cost new of operative physical structures and the market value of used and useful lands and water rights as of January 1, 1916.

The water company has advised the Railroad Commission that it is rapidly setting meters and that within a short time the entire system will be metered. The sum of $10,000.00 will accordingly be added to the "fair value" of the property to represent the cost of purchasing and setting 1,000 additional meters.

I find as a fact that a fair return to the water company on the fair value of its used and useful property is the sum of $69,890.00.

2. Depreciation Annuity.

As the return herein is being estimated on the cost to reproduce new on the historical method in the absence of accurate information on the investment, it is clear that the depreciation annuity must be estimated on the sinking fund basis. Assuming a rate of interest of 5 per cent on the moneys in the sinking fund, I find that the sum of $6,815.00 is a reasonable allowance for depreciation annuity, including an allowance for 1,000 additional meters.

3. Maintenance and Operating Expenses.

Railroad Commission's Exhibit No. 7 shows modifications of maintenance and operating expenses reported by the water company for the calendar years 1914 and 1915, resulting merely from taking from maintenance and operating expenses certain items which clearly should be transferred to capital account. The Railroad Commission's hydraulic engineers reported in Exhibit No. 7 that after making these corrections, the maintenance and operating expenses for the calendar year 1914 were $57,762.99, and that the maintenance and operating expenses for the calendar year 1915 were $57,523.32.

In order to secure normal operating expenses to be used in these proceedings, it will be necessary to make certain additions to and deductions from the maintenance and operating expenses for the years 1914 and 1915.

Additions must be made for increased commercial expenses and increased maintenance expenses due to the enlarged metering of the system.

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Deductions must be made in a number of items. The complete metering of the system will result in the use of considerably less water and hence will reduce materially the expenditures for labor, fuel and lubricants for pumping at Phœnix Gulch Reservoir. The total expenditures for these purposes were $5,152.00 in 1914 and $4,194.00 in 1915. The total salaries of general officers are higher than is the case in almost any other water system of this size in California. A reasonable allowance would be $1,200.00 less than the total reported for the calendar years 1914 and 1915. The expenditures in connection with the proceedings for the acquisition of the water company's property by Marin Municipal Water District have been voluntarily deducted by the water company from its maintenance and operating expenses. The taxes paid by the water company include taxes both on operative and nonoperative property. A reduction of $1,183.37 must be made for taxes paid on nonoperative property. The item of rent for the San Francisco office must be deducted. While there is no reason why this company should not maintain an office in San Francisco if the stockholders so desire, the maintenance of two offices, one in San Rafael and one in San Francisco, can not be allowed in a rate case as charges against the consumers. There is no reason, in my opinion, why the business can not be properly handled from the San Rafael office. A portion of the time of the general officers should be charged to construction and a portion to replacements.

After carefully considering all of the evidence bearing on the question, I find that the sum of $51,215.95 should be allowed herein under the head of reasonable maintenance and operating expenses.

The gross revenue received by the water company, as shown by the company's books, during the years 1909 to 1915, inclusive, has been as follows:

Year	Gross revenue
1909	$94,760 10
1910	121,270 58
1911	116,707 82
1912	115,913 97
1913	132,383 43
1914	135,793 96
1915	133,911 57

After careful consideration of all the evidence herein, I find that the rates herein established should yield to the water company a gross revenue of $128,110.00.

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4. Rates Now in Effect.

The water company's rates now in effect are partly flat rates and partly meter rates. These rates will be set forth under the following heads:

(*a*) Flat Rate Service.
(*b*) Meter Rate Service.
(*c*) Fire Hydrant Service.
(*d*) Sewer Flushing and Street Sprinkling Service.
(*e*) Town of Sausalito Service.
(*f*) San Quentin Prison Service.
(*g*) United States Government Service.
(*h*) Service to Other Large Users.

(*a*) *Flat Rate Service.*

The flat rates in effect in the town of San Rafael are as follows:

First. For tenements covering ground surface under six hundred feet, occupied by no more than five persons, who shall use water for domestic purposes exclusively, 75 cents.

For ground surface covered by tenements so used:

Square feet	One story	Two story	Three story
700 to 800	$0 95	$1 00	$1 05
800 to 1000	1 00	1 05	1 10
1000 to 1200	1 20	1 30	1 40
1200 to 1400	1 30	1 40	1 50
1400 to 1600	1 50	1 75	1 95
1600 to 1800	1 65	1 75	2 20
1800 to 2000	1 95	2 20	2 40
2000 to 2200	2 20	2 40	2 60
2200 to 2400	2 40	2 60	2 80
2400 to 2600	2 60	2 85	3 05
2600 to 2800	2 85	3 05	3 30
2800 to 3000	3 05	3 30	3 50
3000 to 4000	3 30	3 50	3 70
Over 4000 and upwards	3 50	3 95	4 40

Provided, however, that no extra charge be made for second and third stories when not occupied.

Second. For families of more than five persons for each adult above that number, 15 cents.

Third. Bathtubs in private houses, for each tub 50 cents; in public houses, boarding houses, bathing establishments and barber shops, each, $2.00.

Fourth. Horses, kept for private use, each, 25 cents; washing vehicles, each, 25 cents; cows, each, 25 cents.

Fifth. Livery stables, including water for washing vehicles, each horse and vehicle, 50 cents.

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Sixth. For each horse trough on sidewalk, $2.00.

Seventh. For water used for washing windows and sidewalks, charge may be made in addition to that for other uses of one cent per linear front foot of the premises to be washed, if done with hose.

Eighth. For each water closet in public building, $2.00; for lodging houses, boarding houses, $1.00; for water closet for use in one private dwelling, 50 cents; for each additional water closet for use in each private dwelling, 25 cents.

Ninth. For each barrel of lime or cement used, 25 cents; wetting bricks for building, per thousand, 25 cents.

Tenth. Irrigation of lawns, gardens and grounds, one-half of one cent per square yard per month, payable every month of the year, provided there shall be no charge for irrigation less than 25 cents per month.

Eleventh. Hotels, taverns, lodging houses and boarding houses shall be charged for boarders and lodgers within the same, 15 cents, but this shall not include bathtub or water closet, which shall be separately charged as above.

Twelfth. Restaurants, $3.00; saloons, $2.50; laundries, $10.00; carriage manufacturers, $1.50; stockyards and pasture grounds, for each head of stock, 25 cents.

Thirteenth. Bakeries, $1.00.

Fourteenth. Stores, offices, warehouses and tenements not mentioned in any other classification and requiring only an ordinary amount of water at rates provided for in the first item of this section.

Fountains are supplied at meter rates.

The flat rates in effect in the remaining territory served by the water company are the same as those in effect in San Rafael, except that the minimum rates for tenements are $1.00 for one story, $1.05 for two stories and $1.10 for three stories.

(*b*) *Metered Rate Service.*

The water company's meter rates in effect throughout its entire territory, with the exception of certain special uses hereinafter referred to, are as follows:

4,000 gallons or under	50 cents
5,000 gallons	48 cents
6,000 gallons	45 cents
7,000 gallons	43 cents
8,000 gallons	42 cents
9,000 gallons	41 cents
10,000 gallons	40 cents
11,000 gallons	39 cents
12,000 gallons	38 cents
13,000 gallons	37 cents

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14,000 gallons	36 cents
15,000 gallons	35 cents
16,000 gallons	34 cents
17,000 gallons	33 cents
18,000 gallons	32 cents
19,000 gallons	31 cents
20,000 gallons and over	30 cents

These rates are among the highest rates in California.

The minimum rate on metered service in San Rafael, Ross and Larkspur is $1.00, but in San Anselmo the minimum is $2.00. This discrimination is the chief source of complaint of the town of San Anselmo and must be removed.

The water company's flat rate users and metered users as of December 31, 1915, were as follows:

Locality	Flat rate users	Metered users	Total
San Rafael	664	1,046	1,710
San Anselmo	689	287	976
Ross	120	169	289
Larkspur	1	92	93
Sausalito		5	5
Unincorporated territory	222	216	547
Total	1,696	1,815	3,511

The water company claims that, by actual count, 12½ per cent of its services were dead on June 26, 1916.

(c) *Fire Hydrants.*

The number of fire hydrants and the rate in the various communities served by the water company are as follows:

Locality	Number of fire hydrants	Rate
San Rafael	117	$100.00 per month (including flushing of sewers).
San Anselmo	43	$1.00 per month for each hydrant.
Ross	42	$1.00 per month for each hydrant.
Larkspur	4	50 cents per month for each 2-inch hydrant and $1.00 per month for each 2½-inch hydrant.
Corte Madera	1	No charge.
Total, December 31, 1915	207	

The water company owns the fire hydrants.

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(d) Sewer Flushing and Street Sprinkling Service.

The rates in effect for sewer flushing are as follows:

Locality	Rate
San Rafael	Included in $100.00 per month "for flushing sewers and extinguishing fires."
San Anselmo	$1.00 per month for each fire hydrant includes water, "for fire purposes and flushing sewers."
Ross	No mention.
Larkspur	No mention.

The rates in effect for street sprinkling and other municipal uses, except as hereinbefore designated, are as follows:

Locality	Rate
San Rafael	20 cents per 1,000 gallons.
San Anselmo	20 cents per 1,000 gallons.
Ross	20 cents per 1,000 gallons.
Larkspur	25 cents per 1,000 gallons.
County of Marin	20 cents per 1,000 gallons.

(e) Town of Sausalito Service.

The rates paid by the town of Sausalito for water purchased from the water company and distributed through the town's municipal system are specified in paragraphs VI and VII of the contract of March 8, 1909, as follows:

Paragraph VI.

"Said second party (the water company) shall receive and accept as payment for all water furnished the maximum rate of 30 cents per thousand gallons when the total amount of water furnished to first party (Town of Sausalito) shall not exceed an average during the respective year of two hundred thousand gallons per day. And when such average amount of daily consumption shall exceed two hundred thousand gallons, the rate per thousand gallons for all water furnished shall diminish proportionately, so that, when the average daily amount supplied shall have reached five hundred thousand gallons, or over, the rate for water furnished shall become 22 cents per thousand gallons; provided, however, that said maximum rate of 30 cents per thousand gallons shall at once be reduced to 27 cents, whenever the Bon Tempe dam proposed to be constructed by second party shall be in use by second party, and the rate thereafter shall diminish in the same proportion until the amount supplied is five hundred thousand gallons per day, or over, except that then, the maximum rate shall be figured at 27 cents, instead of 30 cents per thousand gallons; but the rate shall continue to be 22 cents per thousand gallons for said maximum consumption per day of five hundred thousand gallons or over."

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Paragraph VII.

"First party (Town of Sausalito), in consideration of the foregoing agreements to be performed by second party, hereby agrees that it will, during the first year of the term hereof, pay for not less than one hundred and fifty thousand gallons of water per day, and after first year, for not less than two hundred thousand gallons per day for every year during the life of this agreement."

The town of Sausalito has never used even the average of 150,000 gallons per day specified in paragraph VII of its contract with the water company. The total number of gallons used and the average per day from 1910 to 1915 have been as follows:

Year	Total gallons	Average per day
1910-1911	42,116,550	115,000
1911-1912	31,737,600	87,000
1912-1913	36,444,625	100,000
1913-1914	36,882,675	101,000
1914-1915	35,189,574	96,500

As already indicated, a 12-inch cast-iron pipe line was laid by the water company from a point near Corte Madera to the town of Sausalito to serve the town with water under the contract of March 8, 1909. In addition to the town of Sausalito, Northwestern Pacific Railroad Company, the Federal Government at Fort Baker, the Federal Government at Angel Island and a number of small consumers also receive water through said 12-inch pipe line. The consumption of the large users through this pipe line in the year 1915 was as follows:

Consumer	Consumption
Town of Sausalito	35,189,574 gallons
Northwestern Pacific Railroad Company	14,386,350 gallons
U. S. Government—Fort Baker	760,285 gallons
U. S. Government—Angel Island	6,665,379 gallons
Total	57,001,588 gallons

(f) San Quentin Prison Service.

The amount of water consumed in San Quentin Prison is such as to entitle the prison, under the established meter rates, to a rate of 30 cents per thousand gallons.

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In 1915, the prison used the following amounts of water:

January	3,659,011 gallons
February	3,468,558 gallons
March	4,672,006 gallons
April	3,229,855 gallons
May	3,641,806 gallons
June	3,889,830 gallons
July	4,227,230 gallons
August	3,817,830 gallons
September	4,557,113 gallons
October	3,865,742 gallons
November	3,722,296 gallons
December	4,061,193 gallons
	46,812,470 gallons at 30 cents---$14,043 70

The water company has found it necessary to install a booster pump at San Quentin, so as to enable the prison to secure the amount of water needed. Although the state has hitherto paid the expense of running this pump, I am of the opinion that the expense of maintaining and operating the pump should be borne by the water company. The prison authorities do not ask reimbursement for the expense of the man who operates the pump. The other expenses of maintenance and operation, however, should be reimbursed by the water company.

The prison authorities have asked the Commission to give special consideration to the question of a reduced rate, due to the large amount of water used.

(g) *United States Government Service.*

The United States Government uses water through the Sausalito pipe line at Fort Baker, and also at a wharf in Sausalito, from which point the water is conveyed by barge to Angel Island.

The rate for the service to Fort Baker is 30 cents per thousand gallons, with a minimum of $6.00 per month. The amount of water used in 1915 was as follows:

January use	1,800 gallons
February use	13,050 gallons
March use	17,400 gallons
April use	1,500 gallons
May use	15,150 gallons
June use	18,975 gallons
July use	16,125 gallons
August use	18,750 gallons
September use	108,467 gallons
October use	510,170 gallons
November use	19,449 gallons
December use	19,449 gallons
	760,285 gallons $245 59

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For the water taken from the end of the wharf at Sausalito for use on Angel Island, the United States Government pays a rate of 40 cents per thousand gallons, which was authorized by this Commission on July 6, 1914, in Application No. 1223, on request of the water company (Vol. 5, Opinions and Orders of the Railroad Commission of California, p. 18). This rate includes an item of 10 cents for wharf maintenance fund. During the year 1915, the United States Government took at the wharf 6,665,379 gallons of water for which it paid 40 cents per thousand gallons.

(*h*) *Service to Other Large Users.*

The owners of a number of subdivisions purchase water from the water company at the established meter rates and sell the water at retail to the users on the respective subdivisions. The amount of water taken is such as to entitle the subdivision owners, at the established meter rates, to a rate of 30 cents per thousand gallons.

Northwestern Pacific Railroad Company, which takes water from the water company in Sausalito, took, in 1915, 14,386,350 gallons, for which it paid at the rate of 30 cents per thousand gallons.

5. Rates Herein Established.

FLAT RATES.

As already indicated, the water company has advised the Railroad Commission that it is rapidly installing meters and that within a short time the entire system will be completely metered. For this reason and for the further reason that no logical basis for the establishment of flat rates has been presented herein, no change will be made in the flat (or unmetered) rates, except as to fire hydrant rentals as to which metered service is not feasible.

The fire hydrant rental herein established will be $1.50 per hydrant per month, which rate is at least not too high for this service.

METER RATES.

By reason of the metering of the system hereinbefore referred to, important changes in operating conditions and revenues are now being effected. Manifestly, the amount of water which will be used by the consumers who are now being metered, and the amount of their bills after metering, can not be known with absolute accuracy now. However, it is possible to make fairly reliable assumptions based on the testimony herein with reference to the amount of water which has been used by the consumers who have heretofore been metered. The experience of the past, as shown by the record herein, will serve as a guide in the estimates necessarily made for the future. The discrimination against water users in San Anselmo resulting from the minimum meter rate of $2.00 per month must be eliminated.

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After careful consideration, I find as a fact that the following rates are just and reasonable rates to be charged by the water company for metered service, except as hereinafter indicated:

Minimum	$1.00 per month for the first 280 cubic feet or less
280 cubic feet to 1,000 cubic feet	25 cents per 100 cubic feet
All over 1,000 cubic feet	20 cents per 100 cubic feet
Public street sprinkling and sewer flushing	20 cents per 100 cubic feet

Other public use on grounds and in buildings at general meter rates, and fire hydrant rentals as set forth elsewhere.

A number of special conditions require further consideration, as follows:

(*a*) Sausalito Pipe Line Users.
(*b*) San Quentin Pipe Line Use.
(*c*) Use from Wharf at Sausalito.

(*a*) *Sausalito Pipe Line Users.*

In 1909, the water company, at an expense of approximately $92,591.00, built a 12-inch pipe line from a point near Corte Madera, for the purpose of serving water to the town of Sausalito for its proposed municipal distributing system to the Northwestern Pacific Railroad Company in Sausalito and to possible other users. In addition to these two customers, the water company conveys water through this pipe line for sale to the United States Government at Fort Baker, to the United States Government, Department of Commerce and Labor, at a wharf in Sausalito for transportation to Angel Island, and to a number of small consumers.

The cost of this pipe line was greater than would normally have been incurred by the water company to secure an equivalent amount of revenue. Hence I find that a fair portion of the cost, depreciation, operation and maintenance of this pipe line should be charged directly to the water users on this pipe line. These users should pay a rate correspondingly greater than the rate paid by users on other portions of the water company's system.

I find as a fact that the following rates are just and reasonable rates to be charged by the water company for metered service to consumers on the Sausalito pipe line below the tunnel near Corte Madera:

Minimum	$1.00 per month for the first 280 cubic feet or less
All over 280 cubic feet	25 cents per 100 cubic feet

(*b*) *San Quentin Pipe Line Use.*

Mr. James A. Johnston, warden of San Quentin Prison, asked that particular consideration be given to the rate paid by the prison for water. As pointed out by Warden Johnston, the amount of water bought by the prison is large. On the other hand, the water company constructed a long pipe line for the sole purpose of serving this customer.

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This pipe line cost approximately $18,621.00. It seems only fair that a portion of this additional burden should be charged directly to this customer.

I find as a fact that the following rates are just and reasonable rates to be charged by the water company for metered service to consumers on the San Quentin pipe line:

Minimum ----------$1.00 per month for the first 280 cubic feet or less
All over 280 cubic feet----------21½ cents per 100 cubic feet

The water company should repay to the prison the expense incurred by the prison in maintaining and operating the pump at the prison, apart from the services of the operator.

(c) *Use from Wharf at Sausalito.*

The United States Government, Department of Commerce and Labor, pays to the water company, in addition to the standard rate for water, the sum of 10 cents per 1,000 gallons to cover maintenance and replacement of the wharf. This additional charge was agreed to by the parties and sanctioned by the Railroad Commission in Decision No. 1654, made on July 6, 1914, in Application No. 1223 (Vol. 5 of Opinions and Orders of the Railroad Commission of California, p. 18) and may be continued in effect.

From careful consideration of all the evidence herein, I am reasonably satisfied that the rates herein established will produce the revenue to which the water company is fairly entitled. If the metering of the system should produce results not reasonably to be anticipated from the evidence herein, so that the water company does not receive the revenue to which it is fairly entitled, the water company may, after a normal year's trial, apply for a modification of the rates herein established.

I submit the following form of order:

ORDER.

The above entitled proceedings having been submitted and being now ready for decision, and the Railroad Commission being fully advised,

The Railroad Commission hereby makes its findings of fact as follows:

1. The Railroad Commission hereby finds as a fact that the rates charged by Marin Water and Power Company for water are unjust and unreasonable in so far as they differ from the rates herein established.

2. The Railroad Commission hereby finds as a fact that the rates herein established to be charged by Marin Water and Power Company for water sold are just and reasonable rates.

Basing its order on the foregoing findings of fact and on the further findings which are contained in the opinion which precedes this order,

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the Railroad Commission of California hereby makes its order in these proceedings as follows:

It is hereby ordered that Marin Water and Power Company shall charge and collect rates for water as follows:

1. *Schedule No. 1*—Applicable to all metered use except as specified in Schedules 2, 3 and 4.

Minimum	$1.00 per month for the first 280 cubic feet or less
280 cubic feet to 1,000 cubic feet	25 cents per 100 cubic feet
All over 1,000 cubic feet	20 cents per 100 cubic feet
Public use—all	20 cents per 100 cubic feet

2. *Schedule No. 2*—Applicable to all users on the Sausalito pipe line below the tunnel near Corte Madera.

Minimum	$1.00 per month for the first 280 cubic feet or less
All over 280 cubic feet	25 cents per 100 cubic feet

3. *Schedule No. 3*—Applicable to all users on the San Quentin pipe line.

Minimum	$1.00 per month for the first 280 cubic feet or less
All over 280 cubic feet	21½ cents per 100 cubic feet

4. *Schedule No. 4*—Applicable to all users from wharf at Sausalito. Same as Schedule No. 2, except that the additional sum of 7½ cents per 100 cubic feet may be charged for maintenance and replacement of the wharf.

5. *Schedule No. 5*—Applicable to all fire hydrants—$1.50 per month per fire hydrant.

Rates for all classes of service not otherwise in this order specified shall remain in effect as at present.

The rates herein established shall apply, in so far as they refer to metered use, to the meter reading made in the month of September, 1916, and thereafter, and in so far as they refer to fire hydrant rentals, to service rendered during the month of September, 1916, and thereafter.

Within twenty days from the date of this order, Marin Water and Power Company shall file with the Railroad Commission a schedule of the rates herein established.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of August, 1916.

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Decision No. 3608, grade crossing; not printed. See end of volume.

DECISION No. 3609.

IN THE MATTER OF THE APPLICATION OF SANTA PAULA WATER WORKS FOR AN ORDER AUTHORIZING THE ISSUE OF CERTAIN PROMISSORY NOTES.

Application No. 2454.

Decided August 31, 1916.

Applicant authorized to issue five promissory notes of the aggregate face value of $10,000.00, such notes to be sold at not less than their full face value, proceeds to be used for betterments to applicant's system.

C. C. Teague, for Applicant.

REPORT OF THE COMMISSION.

Applicant seeks authority to issue its five promissory notes for two thousand (2,000) dollars each, the proceeds to be used to replace distributing mains underlying certain streets of Santa Paula about to be paved.

Applicant was incorporated November 9, 1891, with a capital stock of one hundred and fifty thousand (150,000) dollars, divided into fifteen hundred (1,500) shares of the par value of one hundred (100) dollars each. It has paid dividends of four and one-half (4½) per cent per annum since 1907. For the first sixteen years it paid no dividends. The Thermal Belt Water Company owns nine-tenths of its capital stock and the Fernald estate owns the remainder. Both companies are under the same management.

On December 31, 1915, applicant reported assets and liabilities as follows:

Resources.

Water plant	$65,000 00
Intangible capital	70,597 10
Shop	86 95
Collecting aqueducts, mains and ditches	26,151 50
Alexander tract	998 20
Distributing mains	12,849 62
Echo Fall tract	497 00
Reservoir fence	553 42
Horse, one-half of value	36 13
Mill plant	410 00
Consumer's book	663 95
Cash on hand	1,546 29
Tools and implements	218 16
Horse feed	24 00
Supplies	454 95
Bills receivable	8,808 19
Harness	15 60
S. P. Hotel Company stock	1,300 00
Accounts receivable	2,143 57
Total	$197,467 13

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Liabilities.

Capital stock	$150,000 00
Surplus	37,231 15
Bills payable	
Reserve for accrued depreciation	8,078 19
Accounts payable	2,157 79
Total	$197,467 13

Its statement of profit and loss for the same period follows:

Received from:		
Commercial sales, metered	$9,761 22	
Commercial sales, flat	1,554 90	
Industrial sales, metered	531 50	
Industrial sales, flat	937 00	
Sales municipal departments	312 00	
Street sprinkling	344 16	
Irrigating sales	3,761 95	
Interest received	352 50	
		$17,555 23
Items of expense, depreciation and loss:		
Distribution expense, cost for 1915	$1,266 26	
Taxes, cost for 1915	1,643 59	
Irrigating sales expense, cost for 1915	70 61	
Repairs to collecting aqueducts, mains and ditches	412 90	
Collections and meter readings	607 54	
Repairs to distributing mains	597 34	
Meter repairs for 1915	82 59	
Superintendence for 1915	70 95	
Supplies, loss during 1915	284 07	
Care and repair, cost for 1915	51 86	
Horse feed, cost for 1915	66 10	
Tools and implements, 20 per cent depreciation	54 54	
General expense, salaries, office rent, phone, etc.	1,452 33	
Horse account, 15 per cent depreciation	6 37	
Reservoir expense, cost for 1915	87 26	
Meters, 10 per cent depreciation	902 21	
Reserve for accrued depreciation	2,165 85	
		9,822 37
Net gain for 1915		$7,732 86

Applicant diverts water from Santa Paula Creek by means of a concrete dam located about two miles from Santa Paula. From there it is conveyed through a concrete conduit for about a half mile down the stream, then through a twenty-four inch vitrified pipe for about a half mile, and for the remaining mile through a twenty inch concrete pipe to its 3,000,000 gallon concrete lined reservoir, from which it is distributed through the city to about 659 metered consumers, and about 97 consumers on flat rates. All of its domestic service is metered. It also serves about 125 acres in Santa Paula Canyon with irrigation water. After supplying its customers mentioned above, the surplus is delivered to the Thermal Belt Water Company under contract. It also has an

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arrangement by which the Thermal Belt Water Company pumps water to its reservoir in case of necessity.

Applicant plans to install cast-iron mains under all of the streets to be paved and connect each lot by suitable service pipes to the property line. Most of the material has been purchased and some of it installed. Applicant estimates the total cost of the new installation at $22,803.79. The applicant's estimate of the original cost of that part of the riveted steel pipe to be replaced by cast-iron amounts to $4,872.70. The estimated increase in cost on account of this installation will be therefore $17,930.99.

Applicant presented detailed estimates of the cost of labor and material for installing the mains in question. The Commission's engineer checked the estimates and invoices and reports the estimated costs as being reasonable.

A portion of the necessary expenditure has been met by funds in the treasury of the company and the sale of an $8,600.00 note and the remainder will be provided for if this application is granted.

ORDER.

Santa Paula Water Works, a public utility corporation, having applied to the Railroad Commission for authority to issue its promissory notes for the aggregate sum of $10,000.00, with interest at a rate not exceeding 7 per cent per annum, and a public hearing having been held thereon and it appearing that the purposes for which applicant wishes to use the proceeds of said notes are not in whole or in part reasonably chargeable to operating expenses or to income,

It is hereby ordered that Santa Paula Water Works be and it is hereby authorized and empowered to issue and sell for cash at not less than the face value thereof, five promissory notes for $2,000.00 each, with interest at a rate not exceeding 7 per cent per annum, said five notes to mature serially on January 1st of the years 1918, 1919, 1920, 1921 and 1922, respectively; the proceeds of the sale of said notes to be applied for the construction, completion, extension or improvement of its mains and services, or for the reimbursement of its treasury for moneys heretofore actually expended for purposes described herein or in the opinion preceding this order.

The authority hereby granted is upon the following conditions and not otherwise:

1. The authority herein granted shall not be considered or treated in any proceedings before this Commission or before any other tribunal as a finding by this Commission of the value of the property of applicant for any purposes other than that of the present application.

2. Santa Paula Water Works shall keep separate, true and accurate accounts showing the receipt and application in detail of the proceeds of

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the sale of the notes hereby authorized to be issued, and on or before the twenty-fifth day of each month the company shall make verified reports to the Commission stating the sale or sales of said notes during the preceding months, the terms and conditions of the sale, the moneys realized therefrom, and the use and application of such moneys, all in accordance with this Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority hereby granted shall apply only to such notes as may be issued and sold on or before November 1, 1916.

4. The authority hereby granted shall not become effective until applicant shall have paid the fee specified in the Public Utilities Act.

Dated at San Francisco, California, this 31st day of August, 1916.

DECISION NO. 3610.

E. R. SAMUELS ET AL.

vs.

J. W. CAIN AND ALBERT J. CAIN, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF NOVATO LIGHT AND POWER COMPANY.

Case No. 940.

Decided August 31, 1916.

Complainants allege that defendants' rates for electric energy in the town of Novato and vicinity are excessive and petition the Commission to establish reasonable rates, and an investigation showing that defendants are receiving only a very small return upon their investment and are rendering first-class service, complaint dismissed.

Frank J. Burke, for Complainants.

Thomas J. Boyd, for Defendants.

REPORT OF THE COMMISSION.

This is an action brought by E. R. Samuels and twenty-four other residents of Novato, Marin County, against J. W. Cain and Albert J. Cain, engaged in the business of selling and distributing electric energy to the inhabitants of Novato and its vicinity, requesting this Commission to reduce applicant's rate from twelve (12) cents per kilowatt hour for all lighting to eight (8) cents per kilowatt hour for residential and six (6) cents per kilowatt hour for commercial lighting, or to make such other and further reductions as might appear proper.

A public hearing was held July 13, 1916, at Novato, which is situated approximately half way between San Rafael and Petaluma, the distance

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from Novato to either city being approximately eleven (11) miles. Defendants' rates on file with this Commission are as follows:

Schedule A—Lighting.

12 cents per kilowatt hour for all energy consumed.
Minimum monthly bill, $1.00 per meter.

Schedule B—Power.

6 cents per kilowatt hour when connected load is less than 10 horsepower.
5 cents per kilowatt hour when connected load is between 10 and 15 horsepower.
4 cents per kilowatt hour when connected load is over 15 horsepower.
Minimum monthly charge of $1.00 per horsepower, connected.

Defendants are also serving the Novato Lighting District with street lights under a flat rate, not on file with this Commission, of:

$4.50 per month for each 250-watt incandescent lamp.
$2.50 per month for each 100-watt incandescent lamp.

These rates are materially higher than the rates charged by the Pacific Gas and Electric Company at San Rafael or at Petaluma, and the inhabitants of Novato, feeling that they were being discriminated against, brought this action.

Mr. J. F. Pollard, junior assistant engineer of the Railroad Commission, made a careful and extensive examination of all of the property of defendants used and useful in their electric light and power business, and he prepared and submitted a report which was introduced at the hearing as Railroad Commission's Exhibit No. I. This report contains a detailed inventory and appraisal of the reproduction cost on the historical basis of the property, a summary of which is as follows:

C—1	Organization (estimated)		$200 00
C—2	Franchises		70 00
C—4	Other intangible capital		122 19
C—5	Land		400 00
	Transmission Capital.		
C—14A	Poles and fixtures	$100 06	
C—15A	Overhead system	63 50	
C—17A	Substation buildings and general structures	268 64	
C—18AB	Substation equipment	2,047 14	
	Total transmission capital		$2,479 34
	Town Distribution Lines.		
C—14B	Poles and fixtures	$704 75	
C—15B	Overhead system	520 74	
C—20	Line transformers	253 20	
C—21	Electric services	304 00	
C—23	Municipal lighting	364 88	
	Total town distribution lines		2,147 57

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West Distribution Lines.

C—14B	Poles and fixtures	$1,218 20	
C—15B	Overhead system	919 81	
C—20	Line transformers	494 10	
C—21	Electric services	116 00	
	Total west distribution lines		2,748 11

Black Point Line.

C—14B	Poles and fixtures	$1,364 20	
C—15B	Overhead system	1,146 70	
C—20	Line transformers	742 30	
C—21	Electric services	102 00	
	Total Black Point line		3,355 20
C—22	Electric meters		1,001 70
C—27	General structures		1,900 00
C—28A	Office equipment		91 60
C—28B	Shop tools and equipment		139 35
C—28D	Stable and garage equipment		658 00
	Material and supplies		215 76
	Subtotal		$15,528 82
C—31	Engineering and superintendence and other undistributed construction expenditures, at 5 per cent		776 44
C—32	Interest during construction, at 1½ per cent		232 93
	Grand total		$16,538 19

From the books of defendants it appears that the operating revenues and expenses for the last three years were as follows:

	1913	1914	1915
Revenues	$2,322 03	$3,228 49	$3,397 68
Expenses	1,791 42	2,078 06	2,307 03
Balance	$530 61	$1,150 43	$1,090 65

In the above figures no allowance is made for depreciation, attorney's fees, accidents, employer's liability insurance, fire insurance, county franchise payment (of 2 per cent of defendant's gross revenue, which commences this year), and the state tax of five and one-fourth (5¼) per cent of defendants' gross revenue. Taking the figures for 1915 as representing a normal year, we find the revenues to be as follows:

Street lighting	**$540 00**
Lighting, residence and commercial	**2,004 29**
Power	**822 65**
Heating and cooking	**20 20**
Miscellaneous	**10 50**
Total	**$3,397 64**

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Expenses.	
Production expense	$1,188 00
Distribution expense	58 34
Salaries, etc.	1,032 47
Taxes	20 72
Miscellaneous	7 50
Total	$2,307 03

If we add to the expenses the moderate sum of $100.00 per year for accidents, employer's liability insurance, fire insurance and attorney's fees, and seven and one-fourth (7¼) per cent of the gross receipts for the county franchise and the state tax, we have a total additional annual expense of $346.32, which, when deducted from the balance of $1,090.61, leaves the sum of $744.29 as the excess of operating receipts over operating expenses without making any allowance for depreciation.

In the above statement of expenses, the term "Production Expenses" comprises power purchased from the Pacific Gas and Electric Company at two (2) cents per kilowatt hour. "Salaries, etc." includes an allowance to defendant J. W. Cain, manager of the electric light and power business, of $75.00 a month and an allowance of $5.00 per month and the use of part of defendant's house to A. J. Cain. It further appears that the defendants also own and operate the telephone system; that defendant A. J. Cain draws approximately $70.00 per month from the telephone business, that they devote their entire time to these two businesses, with the exception of not more than three or four days per month, and that they do practically all their own line work, installation of new services, and other labor connected with the operation of the business.

Both complainants and defendants accepted Mr. Pollard's report as correct for the purposes of this case, with the single exception of Mr. Pollard's valuation of the house occupied as a residence by one of the defendants and used as an office for both the telephone and the light and power businesses and land connected therewith, the defendants claiming that the valuation of the land was too low and the complainants claiming that practically no allowance should be made for the house. We do not think it necessary to determine this question in this case, for if no allowance were to be made for the house, then defendants' annual expenses would be increased at least $60.00 per year for rental of the space now used by it.

The annual depreciation, computed on a six (6) per cent sinking fund basis, amounts to $451.52 per year without allowing any depreciation upon the house. Subtracting this from the balance of $744.29, we find that applicant's net annual revenue, after making a due allowance for depreciation, appears to be $292.77. This allows defendants a return of approximately two (2) per cent upon their property, even if they are not allowed to include the residence. The evidence showed that, due to

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an error in metering the power purchased, the defendant is entitled to a considerable rebate on the payments made to the Pacific Gas and Electric Company. The exact amount has not yet been determined, but in no event could it be large enough to increase defendants' net revenue to even approximately a fair return on their investment.

The evidence showed that defendants' plant has been well constructed and maintained, that it is adequate to serve the needs of the community and that at the same time it was not extravagantly built. Under all the circumstances of this case we can not say that applicant's rate is unreasonable and, accordingly, we can not grant complainants the relief prayed for.

ORDER.

A public hearing having been held in the above entitled proceeding, and the proceeding having been submitted and being now ready for decision, and it appearing for the reasons set forth in the foregoing opinion that the complaint should be dismissed,

It is hereby ordered that the complaint in the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 31st day of August, 1916.

DECISION NO. 3611.

IN THE MATTER OF THE APPLICATION OF ANDREW SORENSON TO INSTALL METERS AND ESTABLISH RATES FOR THE SALE OF ELECTRIC ENERGY.

Application No. 2260.
Decided August 31, 1916.

Applicant, operating a small electrical distributing system in East Oakland, applies for and is granted permission to discontinue all flat rates, install meters and establish the following meter rates: 6 cents per kilowatt hour for first 20 per meter per month; 3 cents per kilowatt hour for all energy used in excess; minimum per month, $1.00 per meter.

Andrew Sorenson, in propria persona.

REPORT OF THE COMMISSION.

This is an application by Andrew Sorenson, of Oakland, for authority to install meters and to establish meter rates for electric service in lieu of the flat rate charges at present in effect.

Petitioner owns a small water plant and system and an electric distribution system in the vicinity of Irving avenue and East Twentieth street, Oakland, Alameda County. His place of business is located at 1932 Irving avenue.

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The electric plant of petitioner consists of a 220-110 volt, three wire, secondary, electric distribution system, serving about fifty-three lighting consumers, located in the three blocks between Twenty-fourth avenue and Twenty-sixth avenue and between Foothill boulevard and East Twentieth street and the two blocks adjacent to Twenty-fifth avenue north of East Twentieth street, East Oakland.

The distribution lines of petitioner are constructed for the main part along the property lines in the interior of the blocks, but in a few instances they are extended along and across streets. No electric meters are installed, all present service being furnished on a flat rate basis.

The effective flat rates of petitioner on file with the Commission are as follows:

Table I.

Present Flat Rates—Andrew Sorenson, Oakland.

Minimum: $1.00 (which minimum monthly payment entitles the consumer to the use of 200 watts in lighting equipment).
Extras: 12½ cents for each 25-watt lamp over 200 watts.
16⅔ cents for each 40-watt lamp.
25 cents for each electric iron.
Prices on other utensils on application.

Petitioner asks that the following meter rates be established in lieu of the rates above referred to:

Table II.

Proposed Meter Rates—Andrew Sorenson, Oakland.

6 cents per kilowatt hour for first 20 kilowatt hours per meter per month.
3 cents per kilowatt hour for all in excess.
Minimum monthly charge: $1.00 per meter.

On April 17, 1915, in connection with Application No. 1592, the Commission's gas and electric department estimated the reproduction cost of petitioner's electric distribution system to be nine hundred twenty-seven and eighty one-hundredths (927.80) dollars, and in connection with the present proceeding Mr. P. J. Noerager, of the Commission's gas and electric department, after making an investigation to ascertain the additions to petitioner's plant, submitted a report showing that the estimated present reproduction cost new is one thousand one hundred fifty-one and fifty-five one-hundredths (1,151.55) dollars, and that the estimated cost to reproduce, less depreciation, is one thousand fifty-two and sixty-four one-hundredths (1,052.64) dollars.

Mr. Sorenson has heretofore purchased energy from Great Western Power Company at a rate of three cents per kilowatt hour, with a minimum of fifty cents per month per consumer connected. On May 27, 1916, a new contract was entered into between Mr. Sorenson

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and the Great Western Power Company for electric energy, both for pumping purposes and for resale, at the following rates:

Table III.

Rates Charged by Great Western Power Company for Service Supplied to Andrew Sorenson.

2 cents per kilowatt hour for the first 4,000 kilowatt hours consumer per month.
1½ cents per kilowatt hour for all over 4,000 kilowatt hours consumed per month.
Monthly minimum bill: $80.00.

The annual report submitted by petitioner for 1915 does not show operating expenses or gross revenue, but Mr. Sorenson estimates that his average monthly cost of energy for resale has been sixty (60) dollars, and that the average gross monthly income from the electric consumers has been eighty-three (83) dollars. Mr. Sorenson performs all the work in connection with the operation of his electric system, with the exception of the occasional hiring of a lineman for a day or so, but he apparently does not charge his own labor against the electric business. The only other item of expense in addition to the cost of energy, therefore, is the cost of materials for maintenance, which has been very small. It is impossible to determine the cost of energy, inasmuch as heretofore energy has been supplied both the electric and water companies through one meter. The only alternative, therefore, is to base the cost of energy upon Mr. Sorenson's estimate of sixty (60) dollars per month, which, at the old rate of three cents per kilowatt hour, would indicate a monthly consumption of two thousand kilowatt hours and which, at the new contract rate, would be approximately forty (40) dollars per month. The probable result of the establishment of meter rates would be to eliminate waste and to greatly reduce the amount of energy consumed.

If the application is granted, Mr. Sorenson will be compelled to install meters for each of the present fifty-three lighting consumers. In most cases this will necessitate slight changes in the consumer's wiring, which is to be done at the expense of petitioner. The estimated cost of providing and installing the necessary metering facilities is three hundred fifty (350) dollars.

The ordinance rates for electric energy in the city of Oakland which are charged by the Pacific Gas and Electric Company and the Great Western Power Company for domestic purposes commence at a top rate of seven (7) cents per kilowatt hour, which is considerably in excess of the proposed rates of the applicant.

It is impossible to correctly estimate the revenue which Mr. Sorenson will receive under the meter rates he proposes to charge, as no meters have been installed in the past. The flat rates in effect at the present time do not correctly distribute the expenses, owing to the fact that no

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effective limit is put upon the amount of energy consumed, and practically all of the cost is directly proportioned to the energy consumed.

Mr. Sorenson purchases energy at a rate per kilowatt hour, and it is apparent that unless a strict account is kept, energy may be used to such an extent as to increase the cost above the revenue.

In view of the fact that the rates proposed by the applicant are not in excess of the present rates charged by other companies in this district, and further of the fact that the proposed rates will more correctly divide the cost of service between the various consumers and eliminate any possible excess use occurring under the present rates, we are of the opinion that the application should be granted under the conditions set forth in the following order:

ORDER.

Andrew Sorenson having applied to this Commission for authority to install meters and to establish meter rates for electric service in lieu of the flat rate charges at present in effect;

And a public hearing having been held and the matter having been submitted and being now ready for decision,

It is hereby ordered that Andrew Sorenson be and he is hereby authorized to discontinue from and after August 1, 1916, all flat rates for electric service supplied by him in the city of Oakland.

It is further ordered that Andrew Sorenson be and he is hereby directed to establish and file with this Commission, on or before September 15, 1916, the following meter rates for electric service supplied by him in the city of Oakland, which rates are found to be just and reasonable under the circumstances of this particular case:

Table II.

Proposed Meter Rates—Andrew Sorenson, Oakland.

6 cents per kilowatt hour for first 20 kilowatt hours per meter per month.
3 cents per kilowatt hour for all in excess.
Minimum monthly charge: $1.00 per meter.

Dated at San Francisco, California, this 31st day of August, 1916

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GRADE CROSSINGS.

Decision Number	Application Number	Applicant	Location	Action	Date
3298	2274	Pacific Electric Railway Co.	Upland	Granted	April 29, 1916
3303	2247	A. T. and S. F. Ry. Co.	Sundo	Granted	May 1, 1916
3304	1849	Fresno Int. Ry. Co.	Fresno County	Granted	May 1, 1916
3305	2189	Fresno Int. Ry. Co.	Fresno County	Granted	May 1, 1916
3322	2237	Pacific Elec. Ry. Co.	Glendale	Granted	May 12, 1916
3323	2238	Pacific Elec. Ry. Co.	Glendale	Granted	May 12, 1916
3324	2267	S. P., L. A. and S. L. R. R. Co.	Ontario	Granted	May 12, 1916
3325	2275	A., T. and S. F. Ry. Co.	Vernon	Granted	May 13, 1916
3337	2089	Kern County	Wasco	Dismissed	May 13, 1916
3347	2254	County of Fresno	Fresno County	Dismissed	May 19, 1916
3357	2283	Southern Pacific Co.	Calexico	Granted	May 22, 1916
3358	2289	Southern Pacific Co.	San Francisco Co.	Granted	May 22, 1916
3359	2293	S. P., L. A. and S. L. R. R. Co.	Los Angeles	Granted	May 22, 1916
3368	2302	Southern Pacific Co.	San Jose	Granted	May 24, 1916
3369	2282	Southern Pacific Co.	Modesto	Granted	May 24, 1916
3376	2298	Riverside, Rialto and Pac. R. R. Co.	Riverside	Granted	May 26, 1916
3384	1950	Kern County	Kern County	Dismissed	May 27, 1916
3387	2312	Southern Pacific Co.	Berkeley	Granted	June 1, 1916
3391	2213	Pacific Electric Railway Co.	Los Angeles	Granted	June 2, 1916
3394	2325	A., T. and S. F. Ry. Co.	Fresno	Granted	June 5, 1916
3405	2321	Department of Eng., State of Cal.	Naples	Granted	June 5, 1916
3417	2333	Southern Pacific Co.	San Francisco	Granted	June 14, 1916
3458	2375	San Diego and Southeastern Ry. Co.	Cuyla Vista	Granted	June 21, 1916
3465	2350	Madera County	Chowchilla	Granted	June 28, 1916
3466	2353	Bd. of Supervisors, County of L. A.	Los Angeles Co.	Granted	June 28, 1916
3467	2358	City of Los Angeles	Los Angeles	Granted	June 28, 1916
3468	2371	Pacific Electric Railway Co.	Rivera	Granted	June 28, 1916
3469	2372	California Southern R. R. Co.	Riverside County	Granted	June 28, 1916
3481	2374	Pacific Electric Railway Co.	Riverside County	Granted	June 30, 1916
3482	2376	Southern Pacific Co.	Cameron	Granted	June 30, 1916
3490	2322	A., T. and S. F. Ry. Co., So. Pac. Co., and S. P., L. A. and S. L. R. R. Co.	Los Angeles	Granted	July 8, 1916
3491	2391	Southern Pacific Co.	Colton	Granted	July 8, 1916
3492	2395	A., T. and S. F. Ry. Co.	San Francisco	Granted	July 8, 1916
3497	2393	Southern Pacific Co.	Exeter	Granted	July 8, 1916
3498	2397	Northwestern Pacific R. R. Co.	Humboldt County	Granted	July 8, 1916
3502	2396	Tidewater Southern Ry. Co.	Stanislaus County	Granted	July 10, 1916
3506	2417	Southern Pacific Co.	Burlingame	Granted	July 12, 1916
3516	2418	Southern Pacific Co.	McFarland	Granted	July 15, 1916
3517	.....	Not used.			
3521	2422	Southern Pacific Co.	Fowler	Granted	July 17, 1916
3522	2423	Southern Pacific Co.	Lompoc	Granted	July 17, 1916
3534	2427	A., T. and S. F. Ry. Co.	Monmouth	Granted	July 21, 1916
3536	1906	County of San Bernardino	Hinckley	Granted	July 24, 1916
3537	2413	Department of Eng., State of Cal.	Ignacio	Granted	July 24, 1916
3542	2411	Pacific Electric Railway Co.	San Bernardino Co.	Granted	July 26, 1916
3547	2460	Visalia Electric R. R. Co.	Tulare County	Granted	July 28, 1916
3556	2448	Southern Pacific Co.	Ponca	Granted	Aug. 7, 1916
3557	2472	County of Tulare	Tulare County	Dismissed	Aug. 7, 1916
3558	2473	County of Tulare	Tulare County	Dismissed	Aug. 7, 1916
3559	2479	Pacific Electric Railway Co.	Santa Ana	Granted	Aug. 7, 1916
3560	2485	Southern Pacific Co.	Fresno	Granted	Aug. 7, 1916
3570	2484	Southern Pacific Co.	Lindsay	Granted	Aug. 10, 1916
3571	2483	Southern Pacific Co.	Lindsay	Granted	Aug. 10, 1916
3577	2447	Southern Pacific Co.	Modesto	Granted	Aug. 12, 1916
3578	2449	Southern Pacific Co.	West Anaheim	Granted	Aug. 12, 1916
3579	2489	Visalia Electric R. R. Co.	Tulare County	Granted	Aug. 12, 1916
3582	2492	Minkler Southern Railway Co.	Lindsay	Granted	Aug. 18, 1916
3583	2500	A., T. and S. F. Ry. Co.	Mentone	Granted	Aug. 18, 1916
3584	2491	Visalia Electric R. R. Co.	Tulare County	Granted	Aug. 18, 1916
3593	2515	Southern Pacific Co.	Manteca	Granted	Aug. 23, 1916
3597	2482	Minkler Southern Railway Co.	Lindsay	Granted	Aug. 25, 1916
3601	2521	Southern Pacific Co.	Oakland	Granted	Aug. 28, 1916
3604	2525	Visalia Electric R. R. Co.	Tulare County	Granted	Aug. 30, 1916
3608	2509	A. T. and S. F. Ry. Co.	San Diego	Granted	Aug. 31, 1916

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